

Government of Bengal

Report of the Land Revenue Commission, Bengal

Volume IV

Landholders' replies to the questionnaire issued by the Land Revenue Commission, Bengal, and their oral evidence.

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*For questionnaire *see* Appendix II in Volume II.

Reply by the Jessore Landholders' Association.

Q. 1. The duties and obligations of the zamindars under the Permanent Settlement were the following:—

(1) to discharge the revenues at the stipulated periods without delay or evasion;

(2) to conduct themselves with good faith and moderation towards their dependent taluqdars and raiyats—such as not to collect abwabs, etc., and to give dakhilas for payments made.

The description in question 1 is defective, is as much as the term "generous" is nowhere found in the Act, and the generous treatment is not required under the Act.

The description is not exhaustive.

The Permanent Settlement did not take away any rights of the tenants.

Q. 2. It is an indispensable right of the proprietors of lands to choose their tenants or regulate the usage of the land, and when the pre-existing proprietary rights of the zamindars were recognised under the Permanent Settlement, the right to choose their own tenants or to regulate the usage of the land was recognised as a necessary consequence.

Q. 3. The zamindars played a very important part in the economic development of the country since the Permanent Settlement.

They have not failed to perform the functions expected of them at the Permanent Settlement.

(1) They have reclaimed vast tracts of waste lands and converted them into culturable ones, and enhanced the agricultural resources and brought about ease and prosperity of the province.

According to Colebrooke, the Assistant Collector of Tirhoot in 1786, two-thirds of Bengal were waste lands and jungles. (*Vide* Colebrooke's Husbandry of Bengal by Robert Knight, page 17.)

Mr. Pattle, a former member of the Board of Revenue, said—

"The country brought under the Decennial Settlement was for the most part wholly uncultivated. Indeed, such was the state of the country from the prevalence of jungle infested by wild beasts, that to go with any tolerable degree of safety from Calcutta to any of the adjacent districts, a traveller was obliged to have at each stage four drums and as many torches."

A living instance of such reclamation can be had in Barendra Bhumi in Rajshahi Division extending over lacs of acres, which were almost dreary jungles at the time of the Permanent Settlement. The zamindars recruited Santhals from a different province and reclaimed such large tracts.

The total cultivated area in Bengal is, at present, 46,000 sq. miles. The raiyati assets have improved from 2 crores 85 lakhs in 1793 to 12 crores, according to survey and settlement reports. This has improved the exports from nothing to a vast sum of £30,000,000 sterling a year and the gross value of the harvest from £32,000,000 to not less than eight times that amount, viz., £250,000,000. Since the Permanent Settlement, the province is getting, at an average calculation, about 40 crores in normal time from jute.

On the 20th October 1883, the Commissioner of Burdwan reported to the Government of Bengal as follows:—

"The Bengal of to-day offers a startling contrast to the Bengal of 1793: the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement—a great portion of this increase is due to the zamindari body as a whole, and they have been very active and benevolent factors in the development of this prosperity."

Sir Ashley Eden, in 1877, in a speech at Dacca, said—

"Great as was the progress which I knew had been made in the position of the cultivating classes, I was quite unprepared to find them occupying a position so different from that which I remember them to occupy when I first came to the country. They were then poor and oppressed with little incentive to increase productive powers of the soil. I find them now as prosperous, as independent, and as comfortable as the peasantry, I believe, of any country in the world; well-fed, well-clothed, free to enjoy the full benefit of their labour, and to hold their own or obtain prompt redress for any wrong.

(2) They are promoting and preserving the agricultural resources of Bengal intact by supply of seeds, implements of agriculture and husbandry, and cultivation costs to the tenantry in some places, by irrigation of culturable lands of the tenants in some places, by protection of the tenants' cultivation by construction of bunds, artificial sewers, etc., and thereby preventing an access of saline water into culturable lands—which contingency happening, the cultivation will fail for almost three consecutive years in some places, by construction and preservation of bunds to prevent flood-waters running into culturable lands and causing havoc on crops, by distribution of food grains and money at the time of scarcity and granting remissions of

rents, etc., and by suspension of rent collection and also by effecting improvements in the estates in various ways.

The above is partially borne out by the following official reports:—

"The Lieutenant-Governor has read with satisfaction the testimony borne by the Collector of Mymensingh to the kindness and consideration which the district zamindars, as a body, have shown in forbearing to press their raiyats for rent during this year of difficulty. The Collectors of Dacca and Faridpur have recorded similar remarks. These circumstances reflect credit on the zamindars as a body, and are duly appreciated by Government." (*Calcutta Gazette*, 25th November 1874.)

"Lord Ulick Browne reports also favourably of the conduct of the zamindars in the Presidency Division. Many zamindars have behaved towards their raiyats with forbearance and many with liberality during the scarcity."

"The Commissioner prominently brings to the notice of Government the names of Raja Kamal Krishna and Raja Narendra Krishna and the heirs of Sir Rajah Radhakanta Deb, in the 24-Parganas; of Mr. Sibbald, Babu Surendra Nath Pal Choudhury, Babu Baman Das Mukherjee, Babu Naffer Chandra Pal Choudhuri and Molla Khodadad Khan in Nuddea." (*Calcutta Gazette*, 1st September 1875.)

"The conduct of zamindars (of Dacca division) is noticed as having been generally worthy of their wealth and position. Several of the Dacca zamindars distinguished themselves by liberality during the scarcity, conspicuous among them were Nawab Abdool Gunny, C.I.E., his son Khajah Asanoola Khan Bahadur, Rai Kalinarayan Choudhury of Bhowal, and the Kundoo family of Bhaggacul. Among Mymensingh zamindars, Babu Kasikishore Roy of Ram Gopalpore is noticed for his considerate and liberal conduct in remitting three months' rent and postponing the demand of three months more, to the inhabitants of 12 villages on his estate, whose houses were destroyed by the whirlwind of 19th March." (*Calcutta Gazette*, 1st September 1875.)

"The leading zamindars of the (Rajshahi) division did their duty most creditably in alleviating the distress occasioned by the failure of the harvest, and the Lieutenant-Governor has already acknowledged the good services thus rendered." (*Calcutta Gazette*, 6th October 1875.)

(3) They have been aiding and promoting the cause of education in Bengal.

From Calcutta University down to a village pathsala each educational institution—general, medical, science, engineering, commercial —is fed, from its construction up to its upkeep by substantial lump sums and recurring contributions from the zamindars and but for their help, they could not have grown up and reached their present position.

The above is partially borne out by the following official reports:—

"In Dinajpore, the resident zamindars are described as being inclined to assist education and from Rangpore the report is favourable. The munificence of Raja Promotha Nath Roy of Dighapathia in Rajshahi, in offering the large sum of one lakh and a half of rupees for the proposed Rajshahi College, has been suitably acknowledged by Government." (*Calcutta Gazette*, 30th August 1875.)

"The conduct of the zamindars (in Presidency division) has been with few exceptions worthy of praise. There were no serious quarrels with tenants in any district. In Nuddea the zamindars have shown great interest in education and in the future of the Krisnanagar College. Mr. Stevens names Babu Bamondas Mukherjee of Debgram, Babu Jagat Chandra Mukherjee of Muragatcha, Molla Khodadad Khan, Babu Prosanna Chandra Roy of Kurulgatchi, Babu Hiralal Shaha of Amla, Babu Srinath Choudhuri and Munshi Amir Biswas, a particularly active in educational matters." (*Calcutta Gazette*, 19th September 1877.)

(4) They have been assisting in the improvement of sanitary conditions of Bengal.

The zamindars have contributed substantially for supply of filtered water in towns and cities. In rural Bengal, the zamindars have excavated innumerable tanks and canals for supply of drinking water and for irrigation of the tenants' agricultural fields. Innumerable tube wells have been sunk to remove scarcity of drinking water, etc. In many places the zamindars have made substantial contributions towards the establishment of charitable dispensaries to supply free medicines to the tenantry.

The above is partially borne out by the following official reports:—

"Among the native zamindars, who have been distinguished for active benevolence and liberality, the Commissioner (Burdwan division) notices Babu Joykissen Mookherji in Hooghly, Babu Nabin Chandra Nag in Midnapore, Babu Radha Ballav Singh of Kunchiakole, Babu Damodar Singh of Hetampore in Birbhoom. The Maharaja of Burdwan, with his accustomed liberality, made a further donation of Rs. 10,000 during the year as an addition to his former subscription of Rs. 50,000 in aid of the dispensaries for the suppression of the epidemic fever." (*Calcutta Gazette*, 5th November 1873.)

"The Maharanee of Burdwan and Raja Jatindra Mohan Tagore are highly spoken of by the Collector of Midnapore as animated by a genuine desire to do their duty to their tenantry and spend money on drainage and improvements." (*Calcutta Gazette*, 18th October 1876.)

"............In Rangpore, Babu Nabin Chandra Roy Choudhuri, and Babu Gobinda Lal Rai have both made handsome grants of land towards the improvement of the drainage of the town. Other zamindars have also subscribed liberally for this work. Babu Nabin Chandra Rai Choudhuri has also made a grant of Rs. 20,000 towards the construction of an iron bridge over the Alkuri River." (*Calcutta Gazette*, 25th September 1878.)

"Ranee Swarnamoyee of Cossimbazar—This lady owns estates in Murshidabad, Dinajpore, Rajshahi, Rangpore, Pabna and Nadia. Her munificient subscriptions towards schools, hospitals and other public improvements have on many occasions been acknowledged by Government." (*Vide* Sir Richard Temple's Minute.)

(5) They have been financing and assisting the public works in Bengal.

In many places the zamindars have constructed roads and highways for the tenantry. In each mauza, village paths and roads pass through the khas lands of the zamindars and other landholders. A simple study of the zamindari khas khatian in each mauza will prove the above fact.

In every district, in the majority of cases, district and local boards have not acquired lands and their roads pass through the zamindar's land. The zamindars pay high cesses and revenue for the said lands and district and local boards possess large quantity of lands rent-free and cess-free.

The above is particularly borne out by the following official reports:—

"In most cases the zamindars have refrained from asking for payment of the compensation money to which they would be, by law, entitled on account of the land taken up for relief roads. The value of these gifts cannot be precisely stated, but it must be very considerable. The relief roads extended over a length of about 6,000 miles. Of this length a large portion must have been carried over land belonging to private landlords, most of whom have abstained from demanding compensation. The circumstances redound to the honour and public spirit of those concerned." (*Vide* Minute of Sir Richard Temple, Lieutenant-Governor of Bengal on the services rendered by the zamindars on the famine of 1874.)

(6) At the time of calamities caused by flood, fire and other natural accidents, and in case of failure of crops the zamindars help their tenantry with food, and cash money, and protect them from ravages of famine. Because of the existence of zamindars, the permanently settled areas of Bengal know not of famine. The zamindars of Bengal have been spending considerable amounts in charities every year.

The above is partially borne out by the following official reports:—

"............Many zamindars remarkably distinguished themselves during the late scarcity for munificence and charity. The Lieutenant-Governor has already acknowledged their liberality. The Maharaja of Burdwan, as usual, comes first in works of benevolence and public spirit............" *(Calcutta Gazette,* 18th August 1875.)

"............In Murshidabad, Rao Rajendra Narayan Rai of Lalgola is distinguished for charity to the poor and kindness to his tenantry, while the names of Maharani Swarnamoyee stands foremost in Bengal for works of charity in the Presidency Division." *(Calcutta Gazette,* 19th September 1877.)

"In most cases it is probable, and in many cases it is certain, throughout the distressed districts, that the zamindars and landholders of all classes have suspended the collection of a considerable portion of their rents. In other words, most of them have had their income seriously curtailed for a year or more. Many of them must have previously been living up to their incomes: and this should not excite any surprise, as they have families and numerous persons dependent on them. Their position in native society is such as to entail many expenses, such as are unavoidable in the joint family system, but are not at once obvious to Europeans who may have a more restricted standard of the family unit. All these circumstances must be considerably remembered when a general estimate is formed of their services in the cause of humanity. They must all have suffered at least temporary pecuniary loss, and some must have undergone grave inconvenience. Large numbers, perhaps, many thousands of lesser landholders, who cannot be formally designated, must nevertheless have suffered a severe distress, the full degree of which will never be exactly known. It will be found, too, that for the period of famine and scarcity, the land revenue is paid in by the zamindar in a manner which is satisfactory and creditable to the working of the Permanent Settlement.. As a general fact, I may mention that the total of the sums taken out by the zamindars, landholders, and merchants both European and native—chiefly by natives as advances from the Public Treasury—amounts to forty lakhs of rupees, or £460,000, partly for improvement of the land, partly for the benefit of the tenantry, partly for importation of grain. The advances will doubtless be punctually repaid. They were taken by the recipients not at all for their own benefit, but for the sake of doing good offices to those with whom they were connected by ties of fellowship, of neighbourhood, or of social relationship. The magnitude of the sum total represents a good effort made by the upper classes of society on this occasion."

(*Vide* Minute of Sir Richard Temple, Lieutenant-Governor of Bengal, on the services rendered by the zamindars during the famine of 1874.)

The said Minute further says about the commendable services of some of the individual zamindars during the famine—

"Maharaja of Burdwan—This native nobleman's charity has always been far reaching and his liberality has been repeatedly acknowledged by the Government and by his countrymen. During 1874 the Maharaja (though needing a change of climate by reason of indifferent health) stayed the whole year in Burdwan in order to encourage his people by his presence, and busied himself actively in the work of relieving distress. He opened relief houses in different parts of the Burdwan district, and at one time he was relieving 4,000 persons daily. He is believed to have expended on relief work and charitable relief more than £20,000, and the Commissioner reports that his "Charities were limited only by the demand made on them." I consider that he has on this occasion set a noble example, befitting his position as landlord of the largest zamindari in Bengal.

"Ranee Swarnamoyee of Cossimbazar—This lady owns estates in Murshidabad, Dinajpore, Rajshahi, Rangpore, Pabna, and Nadia. Her munificent subscriptions towards schools, hospitals and other public improvements have on many occasions been acknowledged by Government. This year she helped her tenants and aided the Government relief officers in every possible way. She imported grain and distributed it in her villages, remitted or suspended the rent of distressed raiyats, and made herself responsible for the repayment of Government advances. By her munificent conduct on this occasion she has continued to merit the commendation bestowed by my predecessor, who mentioned her as being among the best zamindars in Bengal."

"Mussumat Sham Mohini of Dinajpore—This lady (locally called Maharani) owns large estates (with a rental of £40,000) in the distressed portions of Dinajpore district. She refrained from collecting rents during the year of scarcity. She bought and distributed to the tenants about £5,000 worth of rice and seed grain, caused tanks to be dug on her estate, gave land free of charge to her villagers for their tanks, maintained a relief house where from first to last, about 90,000 persons received relief, and made herself responsible for the repayment of all advances of grain made by Government to her raiyats."

"Babu Bissessur Melay, on behalf of his mother-in-law Darumba Debya, of Searsole in Burdwan district showed distinguished liberality. He executed relief works for the convenience of his villages at a cost of

about £10,000, distributed charitable relief daily at a poor house near his home, and was personally active in directing the due administration of his own charities and of the Government relief operations."

"Baboo Ram Ranjun Chuckerburtty of Beerbhoom, owns estates which were visited by distress. He from the first set a good example to the neighbourhood, expended £1,400 on relief works, remitted £3,100 (or one-tenth of his yearly rents), maintained for four months a relief house where 250 persons were fed daily, subscribed largely to relief funds, and personally as well as through his efficient manager Mr. Reed superintended the dispensation of his charities."

"Babu Joy Kissen Mukherjee and Raj Kissen Banerjee hold large estates in a part of Hooghly which was much distressed. They undertook a considerable number of relief works, helped their raiyats, and remitted or suspended rents. They both personally busied themselves in directing relief operations. The Commissioner writes that, 'In the Hooghly district Babu Joy Kissen Mukherjee was, as usual, the first and foremost in his exertions for the good of the people and in support of the officers of Government'."

"Raja Jatindra Mohan Tagore owns large estates in the Midnapore district. Although the distress there, which at first threatened to be severe, became afterwards reduced to smaller proportions, he granted to his raiyats remissions of rent to the amount of £4,000, distributed seed grain and money, and gave some land for relief works, opened a dispensary at his own cost and contributed towards medical relief generally. He set an excellent example in these respects at the very commencement of the distress, when the effect of such an example in the country was likely to be particularly good."

"Raja Pramatha Nath Roy of Dighapathia, owns extensive estates in Bogra and Rajshahi districts. He was conspicuous above all other zamindars of Bogra for his liberality. He extended considerable relief works at his own cost, maintained four relief houses, at which about 1,400 people were fed daily, advanced money and seed grain largely to his raiyats, and abstained from pressing them for rent. He set an excellent example to the landholders of Rajshahi, Pabna and Bogra district."

"Babu Radha Gobinda Roy Saheb, of Dinajpore, maintained a private poor house, where gratuitous relief was given, abstained from realising his rents, aided Government relief officers, whenever, and in whatever way he was asked. The Commissioner reports that this gentleman did his duty as zamindar in a quiet, but thoroughly satisfactory manner. Babu Shetab Chand Lahiri, resident of Murshidabad, but zamindar in Dinajpore, deputed a special agent to superintend

relief measures in his estates, executed several relief works for his raiyats, maintained expense throughout, and abstained from pressing for rent."

"Babu Shama Sunker Roy of Teota, usually resides in another district, but on hearing of the distress, went to live on his estate, in Dinajpore. He imported grain for his people, opened relief works, maintained two relief houses throughout the famine, made large advances to his raiyats for food, materially assisted the relief officers of Government. Babu Ramoni Mohon Roy Choudhury of Rungpore has previously been known to be a man of liberality. During 1874, he maintained a relief house on his estates, imported grain, and sold it at cheap rates to his raiyats, whose rents he abstained from collecting."

"Khwaja Ahsanoolah of Dacca, son of Khwaja Abdul Ghunee, C.S.I., well-known for his active liberality upon this as well as other occasions, though residing in a district in which scarcity was happily not general, contributed liberally to the relief of the distressed poor in the city of Dacca, and rendered valuable assistance to the transport operations in the Rajshahi Division, by placing his private steamer at the disposal of Government."

"The zamindars mentioned below carried on relief works or maintained relief houses at their own expense, or imported grain for the help of the raiyats or advanced money and grain to their raiyats or actively and diligently managed the administration of Government relief:—

Dinajpore.

Radha Gobinda Roy Sahib, Narayan Chander Choudhuri of Chooramuni; Boodheenath Choudhuri of Malddoar; Proteema Soondaree Choudhuranee of Jagadal; Pearee Mohan Choudhuri of Jagadal; Babu Shama Nath Roy of Muhadepore; Shama Soondaree Debee of Lalgola; Jankee Geer Goswami of Roygunj; Babu Sisandoyal Roy of Haldebaree; Babu Kureem Baksh Sirkar; Koilasheshree Debee; Babu Modhu Soodun Banerjee, Mussamat Greeja Kumaree Debee; Bajra Mandal, Raiyat, Dinajpore; Babu Muntahar Roy, Agent of Luchmeeput Rai Bahadur, Dinajpore; Tareenee Prasad Chowdhuree of Thakoorgaon, Dinajpore; Trustees of the estate of the late Prosonno Coomar Tagore; Ram Mahamed, Ijaradar.

Bogra.

Babu Ooma Churan Chowdhury of Jamalpore; Babu Koonja Beharee Roy of Dumduma; Mohima Ranjan Choudhury of Kakina; Haneef Talookdar of Mahobala; Babu Eda Paramanik of Badladighee; Ram Chunder Geer Gossame of Sherpore, Radha Rumman Munshee of Sherpore.

Maldaha.

Babu Vojoho Mohan Roy of Harishchundrapore.

Rungpore.

Babu Dukhina Mohan Chowdhuri of Tepa; Babu Nobin Chandra Roy Choudhuri of Bamandanga; Babu Mohima Runjun Roy of Kakina; Babu Kinoo Singh Roy; Babu Ananda Prosad Roy of Sanibarya; Babu Shib Chandra Lahiree of Bowchandee; Babu Janakee Bullub Sen of Dimaha.

Rajshahi.

Babu Shekhareswar Roy of Tehirpore; Babu Gopalendra Narayan Roy of Pooteah; Roy Grish Chunder Lahiree Bahadur; Babu Kishoree Nath Chowdhuree; Ranee Shiveswaree of Natore; Raja Chundra Nath Bahadur of Natore; Moulvi Mahomed Rasheed Khan Choudhury; Babu Taranath Chowdhuree; Babu Raj Kumar Sirkar; Babu Sarada Prosad Sookul; Babu Kristo Lal Moitra, Agent to Babu Debendra Nath Tagore; Babu Mohinee Mohan Roy; Babu Haranath Chowdhuree; Babu Kristendra Roy; Baul Mendal.

Pabna.

Babu Jadunath Mookerjee, Agent of the Tagore Estate; Mussamut Rai Lukhee Debya of Sagoona, near Tares; Babu Bunwaree Lall Roy; Sedut Ali Khan of Kutunga; Mussamut Broja Soondaree Chowdhranee; Dilawar Ali Moonshee.

Murshidabad.

Babu Annada Pershad Roy of Cossimbazar; Roy Jogendra Narayan Roy of Lalgola; Moonshee Zelloo Rahaman of Talipore.

Bankura.

Babu Damoodur Singh, Zamindar.

24-Parganas.

Kumar Komul Krishna Bahadur; Kumar Narendra Krishna; Mr. Cowasjee Eduljee of the Port Canning Company; Babu Degumber Mitter; Babu Mohesh Chandra Chowdhuree.

Nadia.

Babu Bamandas Mookherjee of Debagram; Babu Jugal Chandra Mookherjee of Muragatcha; Mollah Khudadad Khan of Bamunpokree."

Mr. Robinson, Relief Commissioner *of Dinajpore during the famine* of 1874, wrote:—

"It is impossible to quit the subject of the conduct of the zamindars without reference to the subject of Government revenue; and in a pecuniary point of view, I suspect strongly that the zamindars of all classes have probably been the heaviest sufferers by the failure of last year's crops. Very many of them have of themselves suspended all rent collections till better times come for their raiyats; and others, who would have collected, have been unable to do so, partly from the sheer inability of the people to pay, and partly I think, from the fear of consequence, if complaints were heard of their pressing harshly on their raiyats. But be this as it may, there can be no doubt that far the greater part of those who have paid their Government revenue during the past year have had to borrow the money to do so, and this alone must have been no slight strain on the resources of some of them."

Q. 4. It is absolutely incorrect to say that the Permanent Settlement converted the status of "zamindars" from collectors of revenue to actual proprietors of the soil. They were the actual proprietors of the soil, long long before the advent of the British in India and the Permanent Settlement was made in recognition of their pre-existing rights.

In page 370 of the Minute of Sir John Shore, dated 18th June 1789, regarding Permanent Settlement of lands in Bengal, Sir John Shore definitely gave his opinion as follows:—

"I consider the zamindars as the proprietors of the soil, to the property of which they succeed by right of inheritance according to the law of their own religion and that the sovereign authority cannot justly exercise the power depriving them of succession, nor of altering it, when there are any legal heirs. The privilege of disposing of the land, by sale or mortgage, is derived from this fundamental right and was exercised by the zamindars before we acquired the Dewani."

In page 314, et seq, in Harrington's Analysis, Vol. III, in the series of questions put by Sir John Shore to Gholam Hossain Khan, the author of Siyar-ool-Mutakherin, it would appear that he demolished all the objections that were raised against the proprietary rights of the zamindars. In page 317, to the question whether there were instances in which a zamindar succeeded by inheritance without the confirmation of the ruling power, Gholam Hossain Khan stated: "That this has always been the case with the zamindars of Bijapore, Tirhoot, Bettiah, Sirca Saraum, etc." Gholam Hossain further stated that if the Emperor wanted lands, they had to purchase it from the zamindar and he gave some instances.

It is mentioned in the Fifth Report of the Select Committee that "The zamindars of Bengal were opulent and numerous in the reign of Akbar and existed when Jafar Khan was appointed to the administration. Under him and his successors their respective territorial jurisdiction appeared to have been greatly augmented, and when the English acquired the Dewani, the principal zamindars exhibited the appearance of opulence and dignity".

Mr. J. Sullivan, in his observation upon the Sirkar of Musulipatam printed in the year 1780, observes that "At his demise in 1707, the whole country was possessed by the ancestors of the present zamindars".

Mirza Mohsin, an experienced Muhammadan Officer during the early English regime, bears his testimony to the hereditary tenure of zamindars.

The zamindari office in the Moghul period was permanent and hereditary. Ascoli in his "Early Revenue History of Bengal" says:—

"I have examined a sanad of the year 1728 A.D., in which the right of the dispossessed zamindar to receive an allowance from his estate is distinctly recognised."

The Amini Report, submitted by Messrs. D. Anderson, Charles Groftes and George Bogle, three British Officers of the company, to Warren Hastings, Governor-General at Fort William, on the 25th March 1778, says that zamindars held lands subject to the payment of revenue during the reign from Akbar to Jafar Khan and gives proof of the existence of zamindari system during pre-British period. R. B. Ramsbotham, in "Studies in the Land Revenue History of Bengal" said: "The Amini Report was the first technical and professional explanation of the system embodied in collecting the land revenue of Bengal that was placed before the Commission."

Mr. Shore advocating a settlement with the zamindars said: "Revenue belongs to the King, soil belongs to the landlord."

On the 16th July 1777, General Clavering and Mr. Francis, members of the Board of the Governor-General, opined: "We are of opinion that the lands should be restored to the zamindars, whose unalienable property they are, upon a reasonable jama."

Mr. Francis asserted in 1776 that "The land is the hereditary property of the zamindar."

Mr. Shore said that "The principal zamindars received titles and jagirs according to their rank; while those of an inferior degree, in the event of their being obedient to the orders of Government, attentive to the improvement of lands and punctual in the payment of their

revenues, received nankar proportionate to their exigencies; besides which they had no other allowance. The nankar was reduced from the revenue payable to Government. Afterwards, on the decline of the Empire, villages were granted for nankar in lieu of money."

The Court of Directors for the affairs of the East India Company, in its despatch, dated the 21st August 1788, declared that the zamindars had a hereditary tenure in their possessions, that many of them could trace back their rights to days coeval with the conquest of Akbar and that the idea of this right had been repeatedly sanctioned in discussions in Parliament, in the decisions of Courts, and in the practice of Government.

Q. 5. The annulment of the Permanent Settlement would be a breach of a solemn pledge given by the East India Company to the zamindars.

"It is as much a contract as the promissory note of the Secretary of State for India. It is also a contract for the benefit of which the majority of the present landholders of Bengal have admittedly paid full value. Nor was it originally a contract without valuable consideration."

Originally, the revenue represented 10/11ths of the rent-roll. Irrespective of realisation, the zamindars paid the said revenues on many occasions from their hoarded wealth. They spent a good deal in reclamation of waste land. Majority of the present landholders purchased zamindaris at a revenue sale and at a private sale at an enormous expense and spent a good deal for its administration.

It is a solemn Royal Warrant of an absolute sovereign confirming or modifying or, taking the worst view of it from the zamindar's standpoint, conferring property for consideration, pecuniary, political and economical, and past, present and future and as such cannot be altered or modified without due compensation being made as when land is acquired for public purposes.

The Permanent Settlement was made after the resolution of the House of Commons of 1784. Adhering thereto, the Court of Directors in their despatch, dated the 12th April 1786, to the Government of Bengal, stated that "we have entered into an examination of our extensive records on the subject of the Revenue of Bengal from a wish to adopt some permanent system compatible with the nature of our Government, the actual situation of the Company and the case of the inhabitants." The pledge was given by the East India Company who were trustees for the sovereign authority and the Parliament (*vide* Queen's Proclamation, dated 1858).

"Whereas, for diverse weighty reasons, we have resolved, by and with the advice and consent of the Lords, spiritual and temporal, and Commons, in Parliament assembled, to take upon ourselves the Government of the territories in India heretofore administered in trust for us by the Honourable East India Company, "and, as such, is constitutionally binding upon the sovereign authority and the Parliament, and is irrevocable."

In the Great Rent case, Thakooranee Dasi *vs.* Bisheswar Mukherjee, W. R. Act X Ruling, His Lordship the Chief Justice, Sir Barnes Peacock, was pleased to observe at pages 117-118 "on the contrary, I should consider that I was holding that the Legislature, in passing Act of 1859, had violated the engagement which the Government made with the zamindars at the time of the Permanent Settlement and had exercised a power which Government stated no longer existed, when in Regulation II of 1793, they declared in the most emphatic language that 'No power would then exist in this country by which the rights vested in the landholders by the Regulations could be infringed or the value of the landed property affected......'."

The learned Chief Justice Sir Richard Garth, commenting on the Rent Bill which subsequently became the Bengal Tenancy Act, 1885, remarked "If it is necessary as a matter of public policy to deprive the landlords of their rights, let us at least be honest about it and say so. But don't let us attempt to thrust such blind pretence down the throats of an intelligent people."

The tenants were not parties to the said pledge. It was a matter concerning the sovereign authority and the landholders. The tenants had no rights existent and the Permanent Settlement has not done away with any such rights.

Further, the Bengal Legislative Assembly has derived its powers to legislate from the British Crown and the British Parliament under the Government of India Act, 1935, and, accordingly, the said pledge is constitutionally binding upon the Bengal Legislative Assembly and the Government of Bengal.

Q. 6. The large increase in the area brought under cultivation since the Permanent Settlement is mainly due to the initiative and the pecuniary and other assistance of the zamindars.

This increase of agriculture has given the tenant ease and prosperity, which again has prepared favourable grounds for propagation of species and has thrown out impetus to the tenants to cultivate more lands.

The initiative and the pecuniary and other assistance of the zamindars is the cause, and the increase of culturable lands, the increase

in population and the enterprise of tenants are effects of one and the same cause, and the expectation, mentioned in question, has been thus amply fulfilled.

Q. 7. The increase is to be ascribed to the industry and good management of zamindars. According to Colebrooke, two-thirds of land were jungles. The landlords have reclaimed those waste lands by organisation of capital and labour.

On the 20th of October, 1883, the Commissioner of the Burdwan division reported to the Government of Bengal as follows:—"The Bengal of to-day offers a startling contrast to the Bengal of 1793: the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement......... a great portion of the increase is due to the zamindari body as a whole, and they have been very active and powerful factors in the development of this prosperity."

No reclamation was possible or effected simply by the efforts of tenants without the initiative and capital of zamindars. The Regulation of 1793 give sufficient forecast of the fact that for such reclamation investment of capital is a necessity. The evidence of Mr. Pattle, a former member of the Board of Revenue, gives a correct picture of the situation then prevalent thus:—"The country brought under the Decennial Settlement was, for the most part, wholly uncultivated. Indeed, such was the state of the country from the prevalence of jungle infested by wild beasts that to go with any tolerable degree of safety from Calcutta to any of the adjacent districts, a traveller was obliged to have at each stage four drums and as many torches."

After the great famine of 1769-70, there was dearth of peasants. The zamindars required tenants on terms which were lower than customary rates. During this time, a class of raiyats known as vagrant raiyats grew up. They took settlement from one zamindar for one season at a lower rate; if the zamindar tried to enhance rent, they migrated to another place and settled with another zamindar at a lower rate than what was customary. At that time the tenants took advantage of the dearth of peasantry, and the zamindars, by sacrificing a good deal and by organisation of capital and labour, reclaimed vast tracts of waste lands and jungles.

The increase is also not due to enhancement of rents. This point has been dealt with in answer to question 11.

Q. 8. By the Permanent Settlement, the "zamindars were required and expected to conduct themselves with moderation towards their tenants". This expectation has been fulfilled in actual practice.

The zamindars have to make punctual payment of revenue and *cesses, kist* by kist, and, in default of one kist, their estates are sold. *But, in each estate, the tenants' rents in almost each jama are in arrears* for more than three years. After four years, if the tenants pay one year's rent, they are not sued for, but even if sued for, the tenants are allowed almost three years' time again to pay the decretal dues amicably, and after that time, the jotes are put up to sale, and if the tenants want to save their jotes, time is allowed even then and, in some cases, for their inability to pay in cash, they are allowed to give bonds and handnotes in lieu of the decretal dues. Even if the jotes are khas purchased, if the previous tenants want, the jotes are re-settled with them after remission of the major part of the previous dues. This is the general happening in all the zamindaris in Bengal.

The tenants get pecuniary and other help from the zamindars at the time of calamities. The zamindars grant annuities to helpless tenants, and his kar lands to tenants for religious purposes. The zamindars assist the tenants in cultivation by supply of liquid money, etc.

The above is partially borne out by the official reports mentioned in answer to question 3.

The expression "To secure to them the same equity and generous treatment as they were supposed to have received from Government" is an ingenious one, and can nowhere be found in the Regulation itself or the Minutes of Lord Cornwallis. It can never be the object of the Permanent Settlement.

Q. 9. The zamindars have improved their estates by reclamation of two-thirds of waste lands and jungles, and by extension of cultivation in various ways as stated in answer to question 3.

The zamindars have excavated big tanks and sunk tube wells in the mahals. They have constructed roads and village paths. In order that the agricultural produce of the mahals may be sold at fair market prices, they have set up hats, golas, ganzes in different places and have erected permanent buildings and structures there. The zamindars have constructed pucca buildings in each tahsil circle and have thereby enhanced the market value of the lands.

The zamindars have established schools, colleges, and dispensaries, and constructed big buildings and structures for the purposes. The zamindars have in many places set up masjids and temples. They have aided the agriculturists in the cultivation of lands, helped them with money and food grains at the time of scarcity and facilitated the public works by grant of lands to district and local boards free of compensation and rent free.

The above is borne out by the official reports mentioned in answer to question 3.

There is no specific provision in the Permanent Settlement Regulation calling upon the zamindars to extend cultivation. The Regulation merely contains an appeal to their good sense in that direction, with a solemn pledge of allowing unhampered absolute enjoyment of the fruits of their own good management and industry.

The zamindars have not failed in their duties.

Q. 10. The Permanent Settlement was in the interest of the country economically and for the greatest good of the largest number. It has led to a revenue system which is to the benefit of the province.

The tenants are benefited in various ways by the Permanent Settlement. If the administration of the province be dependent on the immediate realisation of rents from tenants, nothing short of a procedure applicable to a revenue sale will be necessary for the State to collect rent necessary to discharge the administrative costs of the province. Many tenants may be incapable to pay their dues punctually and the same will have a disintegrating effect on the agricultural and economic structure of the province.

The Permanent Settlement has brought about the ease and prosperity of the province. The population has largely increased. This has increased the agricultural resources of the country by reclamation of vast tracts of jungles and waste lands—has improved the exports from nothing to the vast sum of £30,000,000 sterling a year, and the gross value of the harvests from £32,000,000, to not less than eight times that amount, viz., £250,000,000.

Referring to the Permanent Settlement, the famous Fifth Report of the Select Committee of the House of Commons presented in 1812 states—"The country exhibited in every part of it improvement on a general view, advancing with accelerated progress in later times."

The Simon Commission in 1929 observed—"Whatever may be said for the wisdom of the policy carried out by Lord Cornwallis, and however absolutely the guarantee then given to the zamindars and their heirs must be fulfilled, the consequences at this time of the day are remarkable."

On the 20th October 1883, only two years before the passing of the Bengal Tenancy Act of 1885, the Commissioner of the Burdwan Division reported to the Government of Bengal as follows:—

"The Bengal of to-day offers a startling contrast to the Bengal of 1793: the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement........ ......a greater portion of this increase is due to the zamindari body as a whole and they have been very active and powerful factors in the development of this prosperity."

That the effect of the Permanent Settlement is remarkable and extensive can be gathered from the following fact:—

From the provincial Banking Enquiry Committee Report (1930), the average income of an agricultural family may be calculated to be Rs. 450 as against his expenditure of Rs. 420, leaving a surplus income of Rs. 30 a year and the average value of an acre of agricultural land in the province to be Rs. 300. The unearned increment from land, viz., on account of rise in the prices of staple food crops entirely goes to the raiyats. The purchasing power of the Bengal middle classes and agriculturists is higher. In Bengal, there are six millions of cultivating families and fifty-seven millions of landholders and forty-six thousand people in the services of zamindari estates, and they all derive substantial benefits from the land system on the basis of the Permanent Settlement.

Sir Peter Grant, the then Lieutenant-Governor of Bengal, in his memorandum, dated the 10th August 1861, sent to the Government of India, referring to the augmentation of public revenues of Bengal in consequence of the Permanent Settlement as compared with those of other provinces, said—"The Settlement as a whole was a heavy assessment at the time and its wonderful financial success is beyond all question."

Mr. Marshman, the famous historian, in page 35 of his History, dated 1871, Vol. 11, wrote thus:—

"The Permanent Settlement of Bengal was a bold, brave and wise measure. Under the genial influence of this territorial charter which, for the first time stabilised indefeasible rights and interests in the soil, population has increased, cultivation has been extended, and the gradual improvement has become visible in the habits and comforts of the people."

The late historian R. C. Dutt, I.C.S., the then member of Board of Revenue, wrote:—

"The settlement is an unqualified boon to the country. Cultivation has largely extended within the last hundred years, the income from lands has largely increased, and the increase has remained with the people, and for the good of the people."

Mr. P. N. Roberts, in his History of British India, wrote:—

"The Permanent Settlement gave popularity and stability to the British Government and has helped to make the province the wealthiest and most flourishing in India."

His Excellency Sir John Anderson, at St. Andrew's Day Dinner on November 30, 1932, gave out his considered opinion on the Permanent Settlement thus:—

"It is, I believe, often said that Bengal would be alright, if it were not for the Permanent Settlment. Such a comment does not seem to

me to be particularly relevant but let us examine the point. The Settlement (of 1793) was not the outcome of the grasping and short-sighted policy of a parochially minded provincial Government but was deliberately imposed by the highest authority in India. Incidentally, it was the same authority who announced that it was fixed forever. No doubt the provincial Government would have been able, had there been no Permanent Settlement, to derive a larger revenue from the land; but in that case it would have been impossible under conditions prevailing to-day to collect the full amount of the tax on jute."

Mr. Pattle, a former member of the Board of Revenue, says:—

"Lord Cornwallis's great and comprehensive mind saw that the only resource within his reach in this critical emergency was to establish public credit and redeem the extensive jungles of the country............ For my part, I am convinced that our continuance in the country depends on the adoption of that measure, and that our stability could not otherwise have been maintained unaltered."

Mr. R. C. Dutt, the former member of the Board of Revenue, writes:—

"All through the fifteen years, from 1795 to 1810, Bengal had showed a surplus (because of the certainty of land revenue) while Madras and Bombay had showed deficits. It is not an exaggeration to state that Bengal, with its Permanent Settlement, yielding a steady and unvarying income from the soil, enabled the British nation to build up their Indian empire. Bengal paid the expenses of ambitious war and annexations in northern and southern India. Madras and Bombay never paid the total cost of their own administration during these years; Great Britain never contributed anything towards the acquisition of India."

Colebrooke declared in 1808 that "The reviving prosperity of the country (Bengal), its increased wealth and rapid improvements, are unquestionably due to the Permanent Settlement."

In 1826, Bishop Heber, wrote that "In Bengal where independent of its exuberant fertility there is a Permanent Settlement, famine is unknown."

In 1837 and 1860, the people of northern India were visited by two great famines. Colonel Baird Smith who was appointed to enquire into the causes of famines in 1860 recommended a Permanent Settlement of land revenue as a protective measure against the evil effects of famine, and stated in his report of 1861 thus—"No misapprehension can be greater than to suppose that the settlement of the public demand on the land is only lightly, or as some say, not at all connected with the occurrence of famines. It lies in reality far nearer to the root of

the matter because of its intimate and vital relation to the every day life of the people and to their growth towards prosperity or towards degradation than any such accessories as canal or roads or the like, important though these questionably are............Given the drought and its consequences, the capacity of the people to resist their destructive influence is in direct proportion, I would almost say geometrical proportions, to the perfection of the settlement system under which they are living and growing."

In 1862, Cecil Beadon, the Lieutenant-Governor of Bengal, advocated Permanent Settlment for the other portions not permanently settled.

In the beginning of the nineteenth century the Marquess of Wellesley, Lord Minto, the Marquess of Hastings, all realised the beneficial effects of the Permanent Settlement.

Samuel Lang, Finance Member to the Government of Lord Canning, spoke of the Permanent Settlement thus:—

"We do not exist as a Government merely to get the largest revenue we can out of the country, or even to keep the mass of the people in a state of uniform dead level, though it should be a tolerably happy and contented one, as a peasant tenantry under a paternal Government. If we give a Permanent Settlement we lay the foundation for a state of society, not perhaps so easily managed, but far more varied and richer in elements of civilisation and progress. We shall have gradations of society, from the native noblemen of large territorial possessions down, through the country gentlemen of landed estates to the independent yeoman, the small peasant proprietor, the large tenant with skill and capital on a long lease, the small tenant on a lease, the tenant-at-will, and the day-labourer."

Sir Charles Wood, in his despatch dated the 9th July 1862, stated:—

"The Permanent Settlement is a measure dictated by sound policy, and calculated to accelerate the development of the resources of India, and to ensure, in the highest degree the welfare and contentment of all classes of Her Majesty's subjects in that country."

Sir Charles Wood described Permanent Settlement as cause of the general progress of the country in wealth and prosperity.

The Permanent Settlement has not led to a system which has resulted in the advantage of the landlords at the expense of the tenants.

(1) Because of the Permanent Settlement, the tenants enjoy lands at a rate lesser than that prevalent in other provinces or countries where there is no Permanent Settlement. Further, before the Permanent Settlement, the rates of rent prevalent in the province were much higher.

(2) According to the Hindu system, the King's share, as mentioned by Manu, is to be one-eighth or one-twelfth. Sir George Campbell asserted that the King took from one-tenth to one-eighth of the gross-produce. Mr. Shore said one-sixth, and others said something less than one-fourth of gross-produce. Sir Thomas Munro puts it as two-fifths.

In Emperor Akbar's time, Government were entitled to one-fifth of the value of produce. Before British rule, Sir George Campbell says, the State took from one-fourth to half the gross-produce, one-third and two-fifths being the most common proportions. The Fifth Report puts the State proportion at three-fifths. Mr. Shore gives two different opinions, his earlier opinion is that Government took one-third, but his subsequent opinion puts Government share at from one-half to three-fifths. Mr. Elphinstone says that one-third is a moderate assessment and the full share is one-half. Mr. Grant reports that the proportion taken was one-fourth, and this he considered reasonable and moderate.

From the following tables, referred to by the Hon'ble Revenue Member, in his speech in the February Session, 1933, of the Bengal Legislative Council, viz.:—

District.	Average gross produce per acre.	Average rate of rent of occupancy raiyat per acre.	Approximate percentage of rent on value of produce.
	Rs.	Rs. a. p.	Per cent.
Bankura	47	1 12 0	4
Midnapore	48	3 2 0	6
Jessore	57	2 7 0 about	5
Khulna	60	3 6 0	5
Faridpur	50	2 9 0	5
Bakarganj	70	4 9 0	6
Dacca	60	2 13 0 about	5
Mymensingh	60	2 12 0	5
Rajshahi	55	3 5 0	6
Tippera	60	3 2 0	5
Noakhali	75	4 4 0	6

we get the average rate of rent of occupancy raiyats throughout the province at Rs. 3-2-4 and the average value of produce at little over Rs. 60 per acre.

From the United Provinces Banking Enquiry Committee's Report (1929-30), we get the following information:—

Division.		Rent per acre.	Value of outturn per acre.
		Rs.	Rs.
Meerut ..	Statutory ..	13½	75
	Occupancy ..	6	..
Jhansi ..	Statutory ..	5	27
	Occupancy ..	2½	..
Gorakhpur ..	Statutory ..	5	78
	Occupancy ..	4½	..
Lucknow ..	Statutory ..	7	63
	Occupancy ..	..	..

We find therefore that rent in the United Provinces is higher than that in Bengal.

In Bihar, the average rent per acre is Rs. 4.

From Dr. Venn's "The Foundations of Agricultural Economics", page 75, we get the capital value per acre at £31 and rent per acre at 31*s*. in England.

Further, from Survey and Settlement Reports, we get the following table which will show that the majority of the raiyats in Bengal are occupancy raiyats.

District.	All raiyats (thousand acres).	Occupancy raiyats (thousand acres).	Non-occupancy raiyats (thousand acres).	Under-raiyats (thousand acres).
Bakerganj ..	1,389	1,346	42	81
Faridpur ..	1,297	921	55	133
Dacca ..	1,441	1,349	37	19
Tippera ..	1,178	1,103	35	68
Mymensingh ..	3,015	2,864	115	124
Jessore ..	1,577	1,370	6	493

Thus, on the basis of the Hindu system 16·25 per cent. should be the rental, and on the basis adopted in Emperor Akbar's time 20 per cent. should be the rental. The existing rent which is only 5 or 6 per cent. is an extremely moderate rate of rent, as compared with that in other provinces or countries or in Bengal before Permanent Settlement.

Further, from the Revenue Department, we get the following statistics as referred to in the aforesaid speech:—

Statement of rental and produce.

	Rupees in crores approximately.
Total rental of occupancy raiyats	8
(1) Total value of rice in normal time (Rs 1,81,89,27,805 in 1928-29)	182
(2) Total value of jute in normal time (1928)	40
(3) Total value of other crops will be considerably above 20 crores, but for present purposes it may be taken to be as low as 20 crores ..	20
Total ..	250

(1) The total value of agricultural produce in normal times is thus taken to be at least 250 crores.

The total rental of occupancy raiyats being about 8 crores the percentage of rent to the total value of agricultural produce is about 3·2, taking the province as a whole.

Thus, by the Permanent Settlement, the tenants are not put in a disadvantageous position than before.

(2) The landlords shall have to pay revenue to Government kist by kist (every three months), and in default of one kist, their properties are sold, and the rigid frame of sunset law operates harshly on the zamindars, and has been the cause of ruin of many ancient zamindaris of Bengal. The famous Fifth Report of the Select Committee of the House of Commons presented in 1812 acknowledged that the great transfer of landed property by public sale and dispossession of the zamindars was due "To the unavoidable consequences of defects in the public Regulations combined with inequalities in the assessment, and with difficulties, obstructions and delays with which many nice distinctions and complex provisions of the new code of regulation, were brought into existence."

On the contrary, the tenants get undue advantages in this direction because of the complex and dilatory provisions of civil laws through which the landlords shall have to pass in the realisation of rents from them. Generally, the landlords do not institute rent suits except as a last resort to save limitation so if the tenants pay one year's rent out of four years' arrears outstanding, their properties are saved.

(3) In Muhammadan times, the zamindar's settlement with the raiyats was annual and the zamindar used to add the subsequent abwabs to the assul or original and distribute the enhanced rate "according to the quantity of land held by the raiyats, or the estimated or actual crop," and enhancement could be pushed on more smoothly. After the Permanent Settlement, the exaction of abwabs in excess of rent was put an end to, and enhancement of rents, because of the costly and cumbrous buttresses of civil laws, turned out more academic than practical, and was not practically availed of by the zamindars and the unearned increment from land goes entirely to the raiyats.

(4) If the tenants are dispossessed in part by landlords, they are entitled to suspension of entire rent. They are not liable to ejectment. They now enjoy the full proprietory rights without sharing the responsibility for revenue with the zamindars.

(5) It has been shown in answers to questions 11 and 13 that the zamindars get very little for their private appropriation, and the margin of profits they have, goes back to the State exchequer in the shape of cesses, stamp duty, income-tax, union rate, etc., and as compared with their profits, their responsibility is immense. It has also been shown there that the net income alleged to have been intercepted by landlords of Bengal is Rs. 10,57,79,239, and the total number of landholding units in Bengal is 57 lakhs, and, by calculation, the average income of each landholding unit comes therefore nearly to Rs. 19 a year.

As compared therewith, the average annual income of an agricultural family amounts to Rs. 450 a year (*vide* the Provincial Banking Enquiry Committee Report, 1929-30).

Further, the fact is that most of the landlords are heavily indebted.

The economic insolvency of the landlords can be guaged also from the fact that in times of depression the number of defaults in land revenue increases and the sale law operates very harshly in many cases. According to the report on the Administration of Bengal (1930-31), defaults and sales numbered 16,122 and 1,422 respectively as against 14,205 and 1,342, respectively in the year 1929-30.

(6) At the time of scarcity, the landlords pay their revenues to the provincial exchequer, although they do not collect rent from tenants. On the contrary, the tenants get rice, grain, money and other reliefs from the zamindars, and in some cases even remissions of rent. The above fact is substantiated by the official reports mentioned in answer to question 3.

(7) While other provinces are affected by famine because of the absence of Permanent Settlement, Bengal since the Permanent Settlement is not so affected.

Thus, the Permanent Settlement has not led to a system resulting in the advantage of the landlords at the expense of the tenants, but on the contrary, it has led to a revenue system which is to the benefit of the province.

That the tenants are prosperous and happy under the Permanent Settlement is borne out by the following official reports.

"There is", remarks the Commissioner of the Presidency division, "a general consensus of opinion that the condition of the agricultural classes who form the majority of the population has so much improved within the present generation that the trading classes have shared in the progress and the labouring classes are also better off than their ancestors." (*Calcutta Gazette,* August 13, 1879.)

"The Magistrates of 24-Parganas, Nuddea and Jessore concur in testifying to a general improvement in the material conditions of the lower classes." (*Calcutta Gazette,* September 19, 1877.)

"The agricultural classes of this division (viz., Rajshahi division) are now extremely prosperous." (*Calcutta Gazette,* September 25, 1878.)

"There is unanimous testimony to the prosperity of the people (of Burdwan division), as a result of good harvests, high prices, and a liberal demand for labour." (*Calcutta Gazette,* September 24, 1879.)

"The material condition of the people (of Chittagong division) is reported to be generally prosperous" (*Calcutta Gazette*).

"There can be no doubt that the material condition of the agricultural portion of the population (of Dacca division) is one of great and increasing prosperity as a consequence of rapidly advancing independence (*Calcutta Gazette,* September 26, 1877.)

Sir Ashley Eden's speech at Dacca, 1877, quoted elsewhere, also testifies to the general prosperity of the tenants under the Permanent Settlement.

Q. 11. There is absolutely no justification for such criticisms and such prejudices thrive best on ignorance.

(1) As regards the criticism on ground 1.

This has been dealt with in detail in answer to question 13. It has been shown there that the word "Appropriation" is a misnomer. The margin goes back to the central and provincial exchequer in some shape or other, and the nett income per head, is very insignificant.

(2) As regards the criticism on ground 2.

The Permanent Settlement had not led to subinfeudation of tenancy. Tenure system was in vogue on small scale long long before the Permanent Settlement and several Regulations of 1793, quinquennial papers, taidad registers kept in the collectorate give evidence in support of the same.

But the Bengal Tenancy Act has led to subinfeudation of tenancy on an extensive scale. At the time of Permanent Settlement there were two kinds of raiyats, viz.:—

(*i*) Khudkasht (resident hereditary cultivators) that is those who actually cultivated the soil by sweat of their brow and live in the village.

(*ii*) Paikasht (non-resident cultivators) that is those who did not live in the village and cultivated by means of labour.

With a view to encouragement and extension of cultivation the zamindars used to give greater rights and privileges to khudkasht raiyats over paikasht. But the Tenancy Act has given right of occupancy to all raiyats irrespective of the fact whether they cultivate or not, and has created large sections of occupancy raiyats who are really rent-receivers and enjoy similar rights and privileges as the zamindars but do not share the responsibility. They are termed tenureholders if they hold 100 bighas or more lands. The transferability of occupancy rights is giving further facilities for such subinfeudation. The tenancy legislations do not aim at the extension and improvement of agriculture, but at the creation of new rights of tenants and extinction of existing rights of zamindars. Thus the tenancy legislations and not the Permanent Settlement are responsible for subinfeudation of tenancy.

(3) Criticism on ground 3.

This is equally untenable. From page 27 of the Bengal Provincial Banking Enquiry Committee report, we find the following statistics showing the average profits of cultivation.

Name of crop.	Average cost of crop production.	Normal yield per acre.		Harvest price per md. in 1928-29.	Value of produce per acre.	Profits.
	Rs.	lbs.	Mds.	Rs. a.	Rs. a.	Rs.
Rice (cleaned) ..	47	1,022	12·4	6 10	82 2	37
Other food crops (wheat).	33	721	9	6 0	54 0	21
Jute ..	92	1,331	16·2	9 0	145 12	54
Oil seeds (rape and mustard).	33	483	5·8	8 12	50 12	18
Cafle and sugar (gur)	276	3,054	37·2	8 9	318 8	42
Tobacco ..	168	1,007	12·2	20 0	244 0	76

From the Survey and Settlement Reports we find the following statistics:—

District.	Rent per acre. Rs.	a.	p.
Dacca	2	13	0
Mymensingh	2	12	0
Tippera	3	2	2
Bakarganj	4	8	10
Faridpur	2	9	2
Noakhali	4	4	5
Rajshahi	3	3	0
Jessore	2	7	5
Midnapore	3	15	5
Bankura	1	12	7

The average for the ten districts comes to Rs. 3-2-4.

From the Revenue Member, we get the following statistics:

District.	Average gross produce per acre. Rs.	Average rate of rent of occupancy raiyat per acre. Rs. a. p.	Approximate percentage of rent on value of produce. Per cent.
Bankura	47	1 12	4
Midnapore	48	3 2	6
Jessore	57	2 7 about	5
Khulna	60	3 6	5
Faridpur	50	2 9	5
Bakarganj	70	4 9	6
Dacca	60	2 13 about	5
Mymensingh	60	2 12	5
Rajshahi	55	3 5	6
Tippera	60	3 2	5
Noakhali	75	4 4	6

We thus get the average rent of occupancy raiyats throughout the province at Rs. 3-2-4 pies and the average value of produce at little over Rs. 60 per acre.

As discussed before, according to the Hindu system, Government was entitled to one-sixth of the value of the produce, and in Emperor Akbar's time to 1/5th. On the basis of the Hindu system 16·25 per cent. should be the rental, and on the basis adopted in Emperor Akbar's time, 20 per cent. should be the rental. Therefore, the existing rent which is only 5 or 6 per cent. is an extremely moderate rate of rent.

From the Revenue Member, we also find the following statement:—

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(3) Total value of other crops will be considerably above 20 crores but for present purposes it may be taken to be as low as 20 crores	20
Total ..	250

The total value of agricultural produce in normal times is thus at least 250 crores and is likely to be considerably more.

The total rental of occupancy raiyats being about 8 crores, the percentage of rent to the total value of agricultural produce is about 3·2, taking the province as a whole.

Further, it has been shown in answer to question 10, that the majority of raiyats in Bengal are occupancy raiyats, and that the rate of rent prevalent in Bengal is much less than that prevalent in other provinces or in England and Wales.

From the above, the inference is irresistible that the Permanent Settlement has not led to enhancement of raiyati rents, but, on the contrary, because of the Permanent Settlement, the raiyats are enjoying rates much lower than those prevalent in the province during the Hindu and Muhammadan reign, that is, before the Permanent Settlement.

During the Hindu and Muhammadan period, a definite share of produce was the rent. During the period of Company management,

competition played an important part in influencing rent in Bengal. After the great famine of 1769-70, there was dearth of peasants. The Government compelled the zamindars to court the peasants to undertake the cultivation of waste lands. "The resident cultivators had only to migrate a few miles to get land at low rates of rent." The cultivators gave terms which were lower than customary rate, and the zamindars had to accept those terms. During this time, a class of raiyats known as vagrant raiyats grew up; they hold lands at lower rate. They took settlement from one zamindar for one season at a lower rate; if the zamindar tried to enhance rent, they migrated to another place and settled with another zamindar at a lower rate than what was customary. Those vagrant tenants reduced the customary rent and the law of supply and demand worked with vengeance on the zamindars, and rent instead of going up to the level of economic rent settled down to the customary rate. This state of things continued up to 1859 when the reign of law began. Rent was settled by the legislature on customary rate and the chances of enhancement were gradually reduced to nil.

From Permanent Settlement upto 1885, the fact that rents were not generally enhanced can be also gathered from consideration of the following facts:—

From Colebrooke's Husbandry of Bengal, page 17, we find (1) that one-third only was under tillage at the time of the Permanent Settlement, and two-thirds were waste lands and jungles. (2) That the gross rental of raiyats was roughly 4 crores. (3) From the Settlement reports, we find that the raiyati assets are estimated at 12 crores. From the above, the following statistics are available:—

	1793.	1884.
Rental:—	4 Crores.	12 Crores.

If one-third of lands under tillage gives 4 crores reclamation of another two-thirds of waste lands will give another 8 crores.

From 1885 to the District Settlement, it will be seen that rents are not enhanced, but have rather fallen down.

At page 443 of Vol. II of the report of the Rent Law Commission, we find Mr. J. O'Kinsaly, one of the members, writing that the gross rental in 1877, according to the Board of Revenue, was Rs. 13,03,78,945. According to settlement reports, we find the gross rental is only 12 crores. So, there is reduction of rents to the extent of more than one crore.

After 1885, the question of enhancement of rents has become more or less academic. Because of the costly and cumbrous court procedure, such enhancements were not generally available. Sir P. C. Mitter, in his evidence, before the Taxation Enquiry Committee was asked:— "Do you mean to say that the landlord is prevented from making even

the two annas in the rupee enhancement?" To that he replied as follows:—"Not exactly prevented by physical force. Taking a holding paying a rent of Rs. 20 a year. An increase of 2 annas in the rupee means Rs. 2-8. The capitalised value of that is about Rs. 40; and if the landlord wants to get that increase through the law courts, he will have to spend about Rs. 1,000 and the raiyat has to spend about Rs. 300 in defending the action and no man out of Bedlam will do it. If there were a simpler process, perhaps certain executive officers being on the spot, decided the question, if the landlord got his proper share in the money that he spent and the raiyat also got a larger share as his profits, then perhaps there would be some incentive. But now if he wants to have an increase, he has to file a suit in the Munsiff's court, the matter will be heard after 3 years; he will have to bring his witness from any distance; the matter will again perhaps be taken up in appeal; they generally go even to the High Court, and before the litigation is complete, he will have to spend a lot of money.

(4) As regards criticism on ground 4.

The Permanent Settlement has not created any system of overlordship. There is no such overlordship. If it is thought that there is any overlordship over the raiyats as alleged, it has been in existence from long before the Permanent Settlement, from time immemorial, without any harassment or oppression to the raiyats.

Q. 12. No, the abolition of the Permanent Settlement is not advocated.

Q. 13. None of those methods is advocated.

We do not agree with the view that the continuance of the Permanent Settlement involves a loss to the State to the extent of about 75 per cent. of the raiyati assets for the following reasons:—

(1) From Appendix of the Land Revenue Administration Report of the year 1930-31, we find the gross rental of Bengal in road cess return to be Rs. 15,98,71,387 out of which collection charges may be modestly taken at 10 per cent. After deducting the said collection charges and land revenue payable to Government and the cesses, the figure comes to this:—

	Rs.
Gross rental	15,98,71,387
Less collection charges at 10 per cent. ..	1,59,87,138
	14,38,84,249
Less Land Revenue	3,01,76,036
	11,37,08,213
Less Cess	89,28,974
	10,47,79,239

Thus, the nett income alleged to have been intercepted by landlords of Bengal is Rs. 10,47,79,239.

From the said figure, on consideration of the following circumstances, further deductions are due:—

(*a*) There is the village union rate which exceeds Rs. 42½ lakhs, payable by landlords in common with the others.

(*b*) Losses incurred in arrears and litigation for recovery of cesses.

(*c*) About 15 per cent. are not realisable in cash. They are bad and irrecoverable and are annual recurring losses. This is evident from the Annual Administration Reports of Board of Revenue in respect of estates under the management of Court of Wards. From the said administration report of Board of Revenue for the year 1932-33, it will be seen that only 85·8 per cent. on the current demand has been realised. These losses are inevitably caused every year by abandonment, surrender, khas purchase in suits, diluvion, etc.

Thus, about 20 per cent. of the gross rental should be deducted from the aforesaid figure of net income every year. The figure then stands thus:—

Net income	10,47,79,239
Less 20 per cent. as aforesaid	3,19,74,277
	7,28,04,962

Major portion of the aforesaid nett income goes to the State coffers in one shape or another. In Bengal out of the provincial revenues of 10 crores, land revenue and stamp duty yield more than 7 crores.

The stamp duty, which was Rs. 355 lakhs in 1928-29 and is the main source of income of the Provincial Government, yields such a figure because of the Permanent Settlement Regulations.

The judicial statistics, as calculated by the Hon'ble Sir P. C. Mitter, would show that out of the total number of civil suits, nearly 60 per cent. are rent suits and 90 per cent. of money suits are for "kisti bandi" of arrear rents. The whole amount of land revenue is contributed by landlords and the majority of receipts under stamps are also paid by them, and the figure under the said head at the modest calculation may come up to 3 crores.

Because of the Permanent Settlement Regulations Bengal gives higher contributions in the shape of income-tax and customs receipts

towards the Government of India. The present land tenure system has given rise to a middle class of people in the province who are primarily responsible for such larger contributions to the central exchequer under the aforesaid two heads. The taxes on income collected in Bengal in 1928-29 is more than 6 crores. An analysis of income-tax assessments made in 1920 at the instance of the Meston Committee showed that over 90 per cent. of the income-tax collected in the provinces comes solely from Bengal, of which 9 per cent. only from business in several provinces with head offices in Calcutta or other places in Bengal. Nearly 24 crores are collected as customs from the ports within the territorial jurisdiction of Bengal and the consumption of Bengal is greater than that of other provinces. The above will be evident from the following statistics of the year 1928-29:—

	Income-tax. Lakhs of rupees.	Customs. Lakhs of rupees.
Bengal	615	1,850
Madras	131	469
Bombay	317	1,921
United Provinces	90	..

Bengal and Madras have almost similar strength in population. Bombay is a manufacturing province and not an agricultural one. In the year 1925-26, Bengal contributed more than 26 crores to the Central Government under various heads, such as income-tax, customs, salt, excise and opium, whereas Madras contributed 6 crores, and United Provinces a little more than 1 crore only. Any interference with the present land tenure system shall revolutionise the economic fabric of society, shall deteriorate the purchasing capacity of middle class, and shall cause consequent deficits under the aforesaid two heads.

Thus, it will be evident from the above that the fancied loss of the State is amply compensated by the contributions of the province under other heads. Abolition of the Permanent Settlement may increase the land revenue but would affect stamp, income-tax and customs receipts, etc. To quote from the speech of His Excellency Sir John Anderson, at St. Andrews' Day Dinner on the 30th November 1932—"No doubt the Provincial Government would have been able, had there been no Permanent Settlement, to derive larger revenue from the land; but in that case it would have been impossible under conditions prevailing to-day to collect the full amount of the tax on jute."

Further, land revenue has gained certainly. In times of depression, when other provincial Governments have to take recourse to

exemption and remission of rents, the Bengal Government could count on their demands under land revenue. From the Land Revenue Administration Report of the Presidency of Bengal for the year 1930-31, it is seen that Government as landlords collected only 56·10 per cent. of the current demand in khas mahal estates, but 90 per cent. from the zamindars in the permanently settled estates.

Further, Government gets land revenue free from cesses and with nominal collection charges because of the Permanent Settlement. In khas mahal estates in Bengal, and in temporarily-settled estates, the collection charges are inordinately high. To quote from the evidence of Sir P. C. Mitter before the Taxation Enquiry Committee—"We have 46,000 square miles of cultivated area and on this we have a land revenue, roughly, of 3 crores of rupees. Take for instance, Madras. The area there is 123,541 square miles and the land revenue is 5 crores and 13 lakhs. Bengal is paying 3 crores on 46,000 square miles, it is not under-assessed. You spend in Madras a large amount, perhaps a crore and a half, on collection owing to the raiyatwari system".

That there is no loss to the State is also evident from the following fact. There are 113 estates under the management of the Court of Wards. From the administration report of Board of Revenue for the year 1932-33, it is seen that collections were made at the rate of 85 per cent. on the current demand, but not withstanding, the Government were able only to realise at the rate of 70·5 per cent. and 29·5 fell in arrears and due.

From the above, it will be seen that there is no loss to the State, and the State shall not gain anything from the total abolition of the zamindari system or from cancellation of the Permanent Settlement and substitution of the system of temporary settlement in its place.

Assuming that Rs. 10,57,79,239 is the net income intercepted by landlords of Bengal, the average income of each landholding unit in Bengal will be very small and insignificant.

From the Land Revenue Administration Report of Bengal for the year 1930-31, we find the following figures:—

Total number of revenue-paying estates	106,208
Total number of revenue-free estates	30,859
Total number of rent-free tenures	33,807
Total number of rent-paying tenures	5,613,723
	5,784,597

Thus, the total number of landholding units in Bengal is 57 lakhs and odd. The average income of each handholding unit comes to

Rs. 19 only a year. In each unit, there are large number of co-sharers, and the income of each co-sharer will be very small and insignificant.

Further, the gross rental realisable from occupancy raiyats is shown to be Rs. 8 crores approximately by the Revenue Member, and the balance of raiyati assets according to settlement reports are realisable by raiyats from under-raiyats. Out of the said 8 crores, some portions are realisable by tenureholders. So, only 8 crores are realisable by State on the abolition of zamindaris and tenures. If from the said 8 crores, deductions under the above heads, such as, revenue, cesses, union rates, stamps, etc., payable to Government are made, the question of loss become entirely imaginary, and unfounded.

R. Money, Junior member of the Board of Revenue of the North-Western Provinces, in a Minute, dated 1861, wrote—

"No amount of direct and indirect land revenue could bear any proportion to the increased sources of revenue which will directly or indirectly be gradually developed by the Permanent Settlement."

Colonel Baird Smith, referring to the fancied loss as alleged opined:—

"There would be no real sacrifice but, on the contrary, a marked increase of the public resources from the creation of the increased private property to which it is conceived that a Permanent Settlement of the public demand must lead."

Mr. G. F. Edmonstone, the Lieutenant Governor of the North-Western Provinces, in a Minute, dated the 27th of May 1862, recommended the Permanent Settlement thus:—

"Judging by the effect of settlements for long periods it may be safely anticipated that the limitation of the Government demand in perpetuity will, in much larger degree, lead to the investment of capital in the land. The wealth of the agricultural classes will be increased. The prospective loss which the Government will incur by relinquishing its share of the profits, arising from extended cultivation and improved productiveness will be partly, if not wholly, compensated by the indirect returns which would be derived from the increased wealth and prosperity of the country at large."

Raja Rammohon Roy, in the early part of the nineteenth century, said "The amount of assessment fixed on the lands of these provinces (Bengal, Bihar and Orissa) at the time of the Permanent Settlement was as high as had ever been assessed and in many instances higher than had ever before been realised by the exertions of any Government, Muhammadans or British. Therefore the Government sacrificed

nothing in concluding that settlement. If it had not been formed the landholders would always have taken care to prevent the revenue from increasing by not bringing waste lands into cultivation, and by collusive arrangements to elude further demands, while the state of the cultivators would not have been at all better than it is now."

The temporary settlement has been made permanent after considerable adverse experience for long long years and re-substitution of the system shall revolutionise the fabric of the society, deteriorate the purchasing power of the people and cause consequent loss of Government revenues under heads, stamp, income-tax, custom duty, cesses, union rates, and shall seriously tell upon the agricultural resources of the province. The evil effect of this arrangement can be better imagined from a simple reading of a passage from Regulation II of 1793—"When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate and moneyed men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious........."

The same causes, therefore, which prevented the improvement of land depreciated its value.

From the above, it will further be seen that the imposition of tax on agricultural income will be wholly unjust and unsound.

From the net income of Rs. 7,28,04,962 after deductions under various heads, the State gets about 3 crores as stamp duty. Major portions of expenditure in litigation are not realisable from tenants because of khas purchases and at the times of depression, these losses cannot be recouped from re-settlements. So, entire litigation costs and cesses not recovered from tenants eat up considerable amounts of the net income. If the total number of landlords in Bengal be taken at 678 thousand, the average income per head becomes insignificant. Under the Bengal (Rural) Primary Education Act of 1930, imposition of education cess at the rate of five pice on each rupee of the annual value of land has been made and landlords have been made responsible to the Government for the whole amount of education cess. Already, without imposition of education cess and income-tax on agricultural income, the condition of landholders of Bengal is anything but satisfactory. The total debt of landlords is estimated at Rs. 40,68 crores (*vide* the July 1934) issue of *Sankhya*, the Indian Journal of Statistics. Further the imposition of such tax shall be in definite violation of the solemn pledge in Regulation I of 1793, and shall be a confiscatory move on the part of Government.

Article VI of Regulation I of 1793 runs thus:—

"..................No demand will ever be made upon them or their heirs or successors by the present or any future Government for an augmentation of the public assessment in consequence of the improvement of their respective estates."

Lord Cornwallis, on the 6th March 1793, wrote to the Court of Directors—

"We think this a proper opportunity to observe, that if at any future period, the public exigencies should require an addition to your resources, you must look for this addition in the increase of the general wealth and commerce of the country, and not in the augmentation of the tax upon the land..........."

With reference to a Bill in 1854 regarding appointment and maintenance of police-chaukidars, the Hon'ble Mr. Peacock, then Law Member of the Governor-General's Council, in a Minute, dated the 6th March 1854, held that the levy of a local rate on the permanently settled estates would involve a breach of the Permanent Settlement and this view found agreement from other members of the said Council and from the then Governor-General, the Marquiss of Dalhousie.

In Emperor *vs.* Probhat Chandar Barua (I. L. R. 51 Cal. 504), Justice Rankin observed—

"............The true intendment of the Permanent Settlement is trenched upon by the imposition of further taxes in respect of any part of a settled estate upon any tenureholder, tenant or other person under the zamindar just as much as by taxes levied directly on the zamindar."

In Maharajdhiraj of Darbhanga *vs.* Commissioner of Income-tax (I. L. R. 3, Pat. 470), the learned Chief Justice Dawson Miller held—

"It is argued that the effect of the imposition of income-tax is not to increase the revenue or rent so payable, but it is clear, I think, that the imposition of such a tax is in fact to increase the revenue under another name. The jama permanently fixed at the date of the Settlement was calculated upon a percentage of the rents and profits at that time derived from the ownership of the land. Income-tax is based upon the same profits as they now exist, and it is impossible in my opinion to escape from the conclusion that a tax, under whatever name, upon the same sources of income, would increase the duty payable under the name of revenue and which, by the Permanent Settlement, it was agreed, should then be fixed for ever."

In King-Emperor *vs.* Probhat Chandra Barua (Full Bench Case), their Lordships Justices Mukherjee and Suhrawardy held—

"Although it is clear that the right to taxation generally was not given up by the Permanent Settlement, it is equally clear from the

correspondence between Lord Cornwallis and the Directors of the East India Company, specially from Regulation XXVII of 1793, section 4, that income or profits from permanently settled estates were not among the items, the right to tax which was reserved. Whether a contribution is levied as revenue or as income-tax, both are demands of the State and when in assessing the revenue, a guarantee was given of its fixity, and a declaration was made that the balance would never be touched, to impose a further tax on the income or the profit is to take away that fixity and alter what was guaranteed to be unalterable. The argument that only the revenue payable by the lands was fixed and not the entire demand of the State on all income or profits cannot prevail, in as much profits from fisheries were taken into account.

The object of the Permanent Settlement Regulation was to ensure the improvement of agriculture and thereby the wealth of the country, by guaranteeing to the landlord exclusive enjoyment of the profits after deduction of a fixed revenue, and the exemption of agricultural income by the Income-Tax Act is perhaps a continuation of the same policy."

Q. 14. Grounds (I) and (II) and abolition on the basis thereof are not advocated, but if notwithstanding, the Permanent Settlement is abolished, compensation should be paid in cash.

The landholders of 1793 engaged to discharge regularly the revenue in all seasons, without reference to drought, innundation or other calamity of the season, and the revenue represented ten-elevenths of the rent roll originally. They thus paid revenues for a long time at a loss. Further, majority of the present landlords are purchasers of zamindaris at a revenue or a private sale for valuable consideration. The Permanent Settlement is thus an agreement for valuable consideration. Further the zamindars have spent a good deal for the settlement operations and for purchase of records, D. Registers, valuation-rolls, sale certificate. And large amounts as arrears of rent and cesses, etc , at an average calculation, for about three years are due and outstanding and the same shall not be realisable if zamindaris are purchased by the State.

Considering the above, fair, equitable and adequate compensation which should not in any case, be less than 30 years' purchase over the gross profit—the rate which is payable to Government in rent-redemption cases should be allowed. In addition, 75 per cent. of the total arrear demands should be given for the aforesaid arrears of rent and cesses due by tenants.

Q. 15. The zamindars were given solemn pledges that they would exclusively enjoy the fruits of their own industry and good management. If those pledges can be run rough shod, bonds which are

nothing but pledges can be equally done so. In the case of such compulsory sale such compensation should be paid in cash.

If compensation be not paid in cash, redeemable bonds having face value equivalent to the amount of cash compensation bearing ¼ per cent. per mensem interest till redemption, free from all taxes with quarterly payment of interest, ought to be given.

Q. 16. The effect of State purchase of zamindaris will be the disruption of the social structure of Bengal.

The direct effect will be that large sections of people of the society in Bengal whose occupation of life was the zamindari from long before the advent of British in India will be out of employment and hopeless. From Land Revenue Administration Report of Bengal for the year 1930-31, we find:—

Total number of revenue paying estates	..	.. 106,208
Total number of revenue free estates	..	.. 30,859
	Total	.. 137,067

On a modest calculation, we may take that every estate carries at least 3 co-sharers. Thus 411,201 persons with their families will be out of employ.

Secondly, 46 thousands of people in Bengal who were in the services of the zamindars as agents, clerks and rent collectors will be out of employment. Already unemployment problem has been very acute in Bengal, and shall grow more acute and unbearable thereby.

The zamindars pay to the State large amounts on account of stamps and court fees, etc., every year. On the abolition of the zamindari system in Bengal at least three-fourths of stamp duties shall fall down. Large number of civil land revenue courts in Bengal shall be abolished. Innumerable people who are connected with civil and revenue courts, such as amlas, peons, pleaders and their clerks, etc., will also be out of employment.

The zamindars collect two pice cess per rupee from the tenants and pay another two pice cess per rupee from their profits. Besides, in almost 50 per cent. of rent suits filed in each estate, the jotes are khas purchased and the entire rents and cesses for about eight years are lost to the zamindars of every estate, but the zamindars make up the deficiency out of their profits, and make punctual payment of cesses with revenue. By State purchase of zamindaris at least three-fourths of the district board income shall fall down, and public work will suffer in consequence. A large number of people including poorer

tenants who get employment in public works shall also be out of employment.

In every year the State gets from the zamindars and tenants large amounts on account of registration fees in respect of kabuliyats and pattas, etc., and certified copies of old documents, etc., including records-of-right. The said revenue shall fall down, and large number of people who are connected with the said transactions shall also be out of employment.

In every year, Government get large amounts on account of income-tax from the zamindars and income under the said heads shall also fall down.

In every year, Government get large amounts from the zamindars, on account of fees and estates partition cost of account of khatians, D. Registers, etc., and the income under the aforesaid heads shall also fall down.

Cultivation and agriculture shall suffer immensely. In many places, the zamindars lend active help and co-operation in cultivation, such as by supply of seeds, implements of husbandry, liquid money for costs of cultivation, etc., by irrigation of agricultural fields, by erection of bunds preventing saline and flood waters running into culturable lands, by supply of waters for irrigation from khas tanks of the zamindars. Besides, some tracts of lands in Bengal are dense jungles and the process of reclamation at the cost of the zamindars is gradually going on. The chance of extension of such cultivation shall be lost for ever.

Sanitation shall suffer immensely. In many places, the zamindars have set up charitable dispensaries and grant medicine free of costs to the tenantry. In many places, the zamindars make recurring grants to the dispensaries for their upkeep. In many places, the zamindars have excavated tanks and sunk tube wells in their khas lands for the supply of drinking water to the tenantry and pay for their preservation and upkeep. In many places during malaria and cholera seasons, the zamindars distribute quinines and cholera inoculations and other medicines free of cost to the tenantry. In many places, the zamindars have constructed roads, bridges, reservoirs, etc., and pay for their repair works. All these things shall be totally stopped.

Education shall suffer to an irreparable extent. From Calcutta University down to a village pathsala, all Universities, colleges, and schools—general, medical, science, engineering, agriculture, etc.—are all more or less fed by lump and recurring contributions and donations from the zamindars. Innumerable students of Bengal are entirely dependent on the zamindar's monthly donations. All these will be totally stopped.

Trade and commerce shall suffer to a large extent. The zamindars are consumers of the major portion of costly articles and merchandise and on the extinction of rich sections of people, trade and commerce shall receive a serious set-back.

From time immemorial, in all social, religious and public works of the province, the zamindars have taken active interest, and based on their donation and charities all public, social and religious institutions and customs have grown up. The zamindars have all along helped the public and the State in diverse functions. The zamindars have helped the State at times of necessity. Large portions of costs in observance of public functions at the time of Delhi Darbar, Coronation, Silver Jubilee, etc., have been borne by the zamindars. During Great War, the zamindars lent active help in State defence. The State purchase of the zamindaris shall deprive the province of these advantages forever.

Many orphans, widows, fakirs, prophets, priests, moulvis, temples, masjids, etc., are fed by monthly donation from the zamindars. In many places the zamindars help people at the time of their daughters' marriage, at the time of their relatives' sradh or illness, etc., and their existence is entirely dependent on the existence of the zamindars and by State purchase of zamindaris, they will be quite helpless.

The State shall sustain a substantial loss therefrom. Provincial Government gets 3 crores as revenue, about a crore as cesses, a large portion out of 42½ lakhs as union rate, and about 4 crores as stamp duty from the zamindars. Central Government gets about 6 crores as income-tax and about 26 crores as customs receipts. The present land tenure system has given rise to a middle class of people in Bengal who are primarily responsible for such larger contributions to the central exchequer under the aforesaid two heads—income-tax and customs receipts. The net income of Rs. 10,47,79,230 which is alleged to have been intercepted by landlords is intercepted by 57 lakhs and odd number of landholding units in Bengal, as per the following statistics of the Land Revenue Administration Report of Bengal for the year 1930-31.

Total number of revenue paying estates	106,208
Total number of revenue free estates	30,859
Total number of rent free tenures	33,807
Total number of rent paying tenures	2,613,723
	5,784,597

Any interference with the present land tenure system shall revolutionise the economic fabric of society, shall deteriorate the purchasing capacity of middle class, and shall cause consequent deficiency in the income-tax and customs receipts of central Government.

Further, only 8 crores, according to Revenue Member as stated elsewhere, is the gross rental realisable by zamindars and tenureholders, and the balance are realisable by raiyats from under-raiyats. If tenures and raiyati holdings are not purchased, and the State only steps into the shoes of zamindars, the balance of profits after deduction of profits intercepted by tenureholders and raiyats shall be insignificant, and, after deduction of huge establishment costs, and the amounts of deficiency caused by failure of stamp, union rate, cess and other duties, shall fall much lower than the revenues now realisable from zamindars free of cesses.

Further, a large amount of the alleged profit shall be consumed in arrears. The Land Revenue Administration Report of Bengal for the year 1930-31, shows that Government realised 90 per cent. on the current demand from zamindars in the permanently settled estates, but realised 56·10 per cent. as landlords in khas mahal estates. The provincial Government bereft of such sure and certain income shall be entangled in the administration.

The State is more a machinery than a living organism. The zamindars are more a living organism than a machinery. The substitution of the State machinery will remove once for all the human control. A poor and illiterate tenant of Bengal can very well approach the zamindars, Rajas and Maharajas direct and can get relief at once, but he cannot get such relief from the State all at once, because of the constitutional limitations on the powers and rights of the local State officers. During Hindu and Moslem rule, the tenants of Bengal were accustomed to such darbars and because of the presence of the zamindars, no difficulty in this direction was felt so long. By State purchase of zamindaris, these difficulties shall be keenly felt by the dumb millions of Bengal.

The tenants do not pay rents to the zamindars regularly and punctually, and keep rent in arrears for several years, and get leniency of treatment from the zamindars. The zamindars pay Government revenue and cesses, although the identical amounts are not realised from tenants. But when the State shall be dependent on the realisation of rents from tenants direct through the State machineries, such lenient treatment shall not be available to the tenants in general, and there shall be acute chance of loss of properties to many.

Already no-rent campaigns and mass agitations are in full swing in Bengal and platform is resounding with slogans of communism. Realisation of rents are matters most unpalatable to the tenants now, and if the State comes in direct touch with the tenants in general of Bengal for the said unfavourable work, the State will have to bear the brunt of popular opprobrium which now so conveniently rests upon the

shoulder of the zamindars and unpopularity, disaffection and discontent may follow leading to a general unrest.

It is for about a century and a half that the Settlement stood. In the meantime zamindaris have been divided, re-assembled, bought and sold in a thousand and one ways. Land values have been different at different periods and occasions have been many and various when zamindaris have fetched high and low values in the market. In the course of those transactions many new zamindaris have come into the field and many old zamindars have purchased new zamindaris, and the process of amortisation has taken off all the benefits of increased land values, i.e., in the case of all zamindaris that have changed hands. A revision of the Permanent Settlement will inflict serious injustice on many, besides bringing unforeseen troubles and extreme disorder.

Thus, to sum up, the financial resources of the State, will not be enhanced by purchase of zamindaris. There shall be huge loss of revenues under different heads, as stated above, and the revenues of 3 crores which the State now gets free from cesses, shall be subjected to payment of cesses, and the establishment costs shall swell sixteen times more, and the anticipated augmentation of public revenues shall hardly meet the deficiency caused by loss of revenues under different heads as narrated above and the increase of establishment costs and shall be affected by constant pressure of demands for remissions and suspensions. About two-fifths of the population of Bengal shall be affected by such a measure, and acute unemployment crisis, disruption and unrest, and disruption of the social and economic structure of the province shall follow as a consequence, and the State shall run into debts for a bad bargain.

Messrs. Orwin and Peer in "The Tenure of Agricultural Land" says:—

"Let it be stated over again that no advantage on balance is claimed for this system of land purchase (by the State) when contrasted with the system of private ownership which has prevailed so long: it is only put forward to provide an orderly way out of the difficulties which the breakdown of the old system is creating."

Q. 17. If the avowed object of the Government and the legislature be not to bring the actual cultivators of the soil under its direct control, there is no sense in purchasing the zamindaris and if the zamindaris are to be purchased for the above object, the purchase of the tenures also shall be a necessary corollary of the same.

Further, if the zamindaris are purchased and tenures are not purchased, there is clear risk of loss of the existing revenue of the State, because the outgoing proprietors might have created innumerable

tenures at low rents. In many circumstances it is seen that tenures are being enjoyed at a lesser rate than that at which the revenue has been assessed.

Q. 18. If the zamindaris and tenures are purchased, at least sixteen times the administrative costs will be enhanced, and Government revenue under the different heads and district board and union board income shall fall down and, three crores of rupees of revenue, free from cesses, shall be subjected to payment of cesses.

Q. 19. We do not think that the raiyats would prefer to come under Government and pay rent to it direct.

The khas mahal raiyats do not get any advantage over tenants under the proprietors of permanently settled and temporarily settled estates.

The legislature has withdrawn certificate powers from private estates, but has kept intact certificate powers in khas mahal estates. The legislature has made the Bengal Debtors' Act, 1935 (Act VII of 1936), applicable to rents of private estates, but has excluded rents of khas mahal estates in the denomination of public demands from the operation of the said Act. The khas mahal estate rents are subjected to temporary revision for 15 years, and enhancement of rents in every fifteen years is said to be the rule.

A tenant of a private estate may save his jote by non-payment for several years, but a tenant of a khas mahal estate is said to be bereft of such leniency.

Q. 20. The Permanent Settlement has not encouraged subinfeudation.

Before the Permanent Settlement, tenure system was in vogue on a moderate scale. The Permanent Settlement Regulation and other contemporaneously passed in the year 1793, and also other Regulations passed almost on or about the same time, give trace of the pre-existence of such tenures. The tenancy legislations from 1859 onwards are affording facilities for such subinfeudation. The Bengal Tenancy Act, 1885, recognise raiyats having 100 bighas or more lands as tenureholders. Many occupancy raiyats of Bengal enjoy lands by receiving rents from under-raiyats and sublet lands at exceptionally high rates, and thereby affect the actual tillers of the soil prejudicially.

Neither the Permanent Settlement nor the zamindars are responsible for such extensive subinfeudation. The tenancy legislations, by way of transferring entire proprietary rights from the zamindars to the so-called raiyats, are responsible for this extensive subinfeudation.

Q. 21. At present the total number of tenures in Bengal is estimated at 56 lakhs (*vide* Report of the Land Revenue Administration, Bengal, 1930-31).

In the Final Report of the Survey and Settlement operation of Jessore, the total number of patnis, darpatnis, maurushi and other jotes, etc., is estimated at about 122,000.

It is also well known that these holders of the tenures form the middle class population in the province. While some of them are entirely dependent upon the income of their respective tenure, others are not so dependent and follow other occupations such as trade and industries.

*If compensation adequate for securing them the same income they are at present getting from their tenures be given to them while the State purchases their tenures, the economic position of either will hardly be altered. On the contrary, both the classes will get some benefit, while their income will remain unaltered, thus latter would get more time and opportunity of devoting their time and resources for following industrial occupations.

Q. 22. In case the State purchases zamindaris and tenures, the holders of homestead and khas lands within such zamindari or tenure, should be allowed to hold their respective homestead and khas lands under the Government on the same terms and conditions as to fixity of tenure and rents as exist to-day, unless they be permitted to hold them henceforth rent free forever.

Any alteration of land tenure in respect of these lands will be highly injurious to owners of buildings, dwelling houses, tanks, etc., now standing thereon as the Government is not expected to pay the value of the latter while purchasing the zamindari or tenure within which they are situated.

By the term khas lands of zamindars or tenureholders we intend to mean only those lands which are in the actual occupation of the zamindar or tenureholder and where they might have erected their own dwelling houses or factories or other industrial concerns or established *hats*, bazars, etc., excavated tanks, etc., and are themselves actually carrying on such industrial concerns, etc.

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*It is anticipated that by this process, the industries in this province will get a move and in that case as a consequence of State purchase of tenures in Bengal there will come about a development of industrial activities as is the case now in Bombay.

Unquestionably the change will improve the economic conditions of the middle class population in Bengal. It is very likely that Bengal will soon become an industrial country. So there will be a marked change in the character of the social structure in Bengal. At present the society is mainly dependent upon agricultural income. But in the altered circumstances, they will be dependant upon trade and industries.

Q. 23. The occupancy right of raiyats is a creation of British legislation, and found space for the first time in the Rent Act of 1859.

Right similar to such statutory right did not exist from an earlier period. Accordingly in 14 C. W. N. 372, it has been held that a right of occupancy cannot be acquired by local usage. In the year 1859, the word "Occupancy" first appeared in the statute book. Earlier Regulations do not contain such word.

According to Colebrooke, the tenant right in any form was unknown in the province and the utmost confusion prevailed everywhere as to the terms on which the raiyat held his lands. (Pp. 39, 46, 47, Colebrooke's Husbandry of Bengal.)

Q. 24. That is not a correct view. The zamindars were and are the actual proprietors of the soil.

The raiyats simply possessed the land, not transferable or heritable, to quote the words of His Lordship the Chief Justice Sir Barnes Peacock at page 117-118 in W. R. Act X, Ruling, as an agricultural day labourer without capital or property.

According to Colebrooke, the tenant right in any form was unknown in the province and the utmost confusion prevailed everywhere as to the terms on which the raiyat held his lands (Pp. 39, 46, 47 of the previous reference).

That the zamindar it was who fixed the rental, and that he did it annually, with due regard to seasons. (P. 44, 52.)

Q. 25. The right of occupancy, as introduced by British legislation for the first time in this country, has brought about a crisis in the agricultural prospect of the province. It has led to extensive commercialisation of cultivating rights in lands and fragmentation of interests and creation of uneconomic holdings and consequent loss of real enthusiasm in extension of cultivation. Vast tracts of lands have passed from the agriculturists, and deterioration in agriculture is in prospect. The actual cultivating raiyats of the soil, that is, korfa tenants, may be given some such legal protection and not intermediaries. Further, such legislation has tampered with the legitimate rights of the zamindars under the Permanent Settlement.

Q. 26. Only actual cultivating raiyats of the soil, i.e., korfa tenants in respect of lands under his direct tillage should be afforded some such legal protection. No such protection should be extended to raiyats in respect of lands not under their direct tillage and which they cultivate through other raiyats.

Q. 27. No.

Q. 28. A cultivator requires statutory protection as he is otherwise helpless. But a person, who is not a cultivator, is generally not in such a helpless condition. Moreover by altering the use of the land, he would be getting much larger profits than what a cultivator could have derived from following agricultural pursuits. It is not fair that he should be getting such income and the superior landlord none out of it. So it seems that when the use of the land is changed and the new-comer uses it for non-agricultural purpose, the statutory protection should not extend to him.

As to the State laying any additional taxes, we think, that under the existing laws, it can get and is actually getting a share of the additional income as may be derived from this altered circumstance, by way of income-tax in addition to chaukidari tax, union rates, etc.

For these reasons, we do not approve of the State laying any additional tax upon land merely when its use is changed from agricultural into non-agricultural purpose.

Q. 29. Yes, it is slightly on the increase, and increase in population and want of culturable lands are the main cause.

Further, the bargadars get higher amount for labour in barga cultivation than labour in any other form.

Want of other industries and unemployment crisis are also to some extent responsible for such increase.

Q. 30. It is highly unreasonable and unwise to give the bargadars, who are nothing but labourers paid in kind, any statutory right.

None of these appears to be the cause.

Q. 32. No. Law is not the only means for protection and goodwill and co-operation of neighbours play a great part in human society, and they do not require any legal protection.

Q. 33. We think it is economically sound and is most paying.

Q. 34. If occupancy and similar statutory rights are given to bargadars to-day, they will naturally sublet such rights to-morrow and this will encourage further subinfeudation.

Any legislation for giving occupancy rights to bargadars will therefore have bad effect on the society and on the bargadars themselves. Moreover in such contingencies the zamindars and others will try to keep all khas lands in their direct possession.

Q. 35. Half the produce is a fair proportion, and no legislation shall be wise.

Q. 36. The wages of the agricultural labourers are generally three to four annas from morning to noon time.

The bargadars get Re. 1-4 from morning to noon instead.

Q. 37. This Association is of opinion that there is no reason to apprehend that as a result of the Bengal Tenancy Amendment Acts of 1929 or of 1938 considerable areas of raiyati lands have passed into the hands of non-agriculturists.

This Association does not support the suggestion for any statutory restriction prohibiting sales of occupancy holdings to non-agriculturists. It would lower the value of the agricultural holdings and would diminish the credit of the occupancy raiyats which has already been seriously affected in various ways. Moreover such restriction is not practical.

Q. 38. In our experience of the method of cultivation now adopted in this province, an economic holding should comprise 10 bighas, as it is just sufficient for a single plough with a pair of bullocks to work with. But this area will vary according to the nature of crop grown on this land. In the case of paddy this area may generally be taken at 10 bighas, but it will not be the same in the case of other crops such as sugarcane, tobacco or jute.

But if scientific cultivation, as now employed in foreign countries, is introduced here the minimum area of an agricultural holding ought to be 40 bighas although outside India this area may be different.

Q. 39. Yes.

Q. 40. Unless the laws of inheritance are changed it is not possible, and such change is not desirable or practicable in the present state of society.

Formation of co-operative society for consolidation of plots of land and cultivation thereof through the said societies or formation of limited company for the said purpose will not be practicable or beneficial in populous areas.

Q. 41. Special facilities by way of fair and adequate market value for the land should be given.

Further, Government can dispense with the costs for stamp and registration fees.

Q. 42. This Association admits that the larger the area of a compact agricultural holding, the more economical will the same be to the agriculturists and agriculture will prosper. With this end in view, this Association supports accumulation of agricultural lands in

a compact form in individual possession. Moreover, unless accumulation be allowed, capital would not be attracted to agriculture and its development will be hampered.

In the next place, when a big capitalist becomes an agriculturist, he will be in a position to sustain calamities and carry on, bad years notwithstanding.

For intensive cultivation it is essential that the agricultural holding should be as large as possible. So this Association has got nothing to say against accumulation of agricultural holding in the hand of individuals. For these reasons, the Association does not support the idea of putting any limit to such accumulation. Suggestion for preventing accumulation of land in one particular hand is therefore unnecessary.

Q. 43. It is detrimental, but this cannot be minimised without interfering with the laws of inheritance.

Q. 44. To stop the evil of fragmentation of tenures and estates, we would suggest that whenever several co-sharers become interested in a particular estate or tenure and all of them agree to be separated, instead of dividing the same amongst such co-sharers according to their shares each co-sharer should be given the right to purchase the interest of others by offering the full value of their shares in the estate or tenure. But he shall have the right only when all the co-sharers agree to his exercising such right. In case of competition for such purchase the party who would offer the highest bid or value should have the legal right of purchase.

The present law embodied in section 88 of the Bengal Tenancy Act, as modified up to date, should be altered to conform to the views we have expressed.

We are confident that by such change in the law much discontent and litigation among co-sharers will be removed and people will live contented and happy. The evils of domestic trouble in many families of Bengal may thus be removed.

Q. 45. To remove the evils of management of estates and tenures owned by a large number of co-sharers who cannot work harmoniously, this Association suggests that in case of every disagreement a co-sharer should take advantage of the provisions already given in the Bengal Tenancy Act for the purpose.

Q. 46 & 47. This Association asserts that the framer of the Permanent Settlement Regulation had never contemplated that the landlords would not be able to increase their profits by enhancing the rate of rent at which the cultivating raiyats then used to pay.

Q. 48. No, there is no basis for such a belief.

Q. 49. During the last district settlement, under sections 50 and 6 of Bengal Tenancy Act, the tenants got the opportunity of establishing that their tenancies existed from before the time of the Permanent Settlement. Law allowed them the benefit of presumption. If the tenants could have proved that they had paid the same rate of rent for 20 years, they were presumed to have held at that rate from the time of the Permanent Settlement, and where they succeeded, their rents were recorded in the settlement records-of-rights as Mokarari and only in the event of their failure to do so, their rents were not so recorded.

Those matters were agitated in the settlement courts and went up to appeals before the Calcutta High Court in many cases and are now re-judicated and cannot be re-agitated.

The settlement records-of-rights are final and conclusive on the point unless the presumption value thereof be rebutted by production of contrary evidence. Under the above circumstances, no tenant can have any grievance on the point.

Q. 50. It was never the intention and never a mistake. There are corresponding provisions for reductions or abatements as well. To quote Marquis Cornwallis, the rents of an estate can be raised by inducing the raiyats to cultivate the more valuable articles of produce and to clear the extensive tracts of waste lands which are to be found in almost every zamindari in Bengal (*vide* the Minutes of Lord Cornwallis).

Q. 51. It was never the intention, and there is nothing in any Regulation from which this intention can be inferred.

Pargana rates did not in the fact exist at the time of the Permanent Settlement. Sir John Shore observed "At present no uniformity whatever is observed in the demands upon the raiyats. The rates not only vary in different collectorships but in the parganas composing them, in the village and in the lands of the same village, and the total exacted for exceeds the rates of Todar Mal."

Regulation IV of 1793 gave the zamindars power to recover rents at the rates offered in the lease, whether the raiyat agreed or not, and the zamindars were thus enabled to distrain for rent at those rates and to put on the raiyats the onus of proving that the rates so claimed were not established rates.

Q. 52. As regards item No. 1, its defect is that the rent of land depends not on its own fertility but on the fertility of other lands, and assumes a fluctuating character in as much as land which is the

basis of comparison may alter materially from time to time, and circumstances affecting the profit affect the rent.

As regards item No. 2, large number of people having small parcels of land and living on subsidiary occupations shall escape payment of rent. This will stimulate fragmentation of interests and creation of uneconomic holding.

As regards item No. 3, this was the basis during the Hindu and the Muhammadan period. According to the Hindu system, Government was entitled to one-sixth of the value of the produce and in Emperor Akbar's time to one-fifth. This should be the principle of determining fair and equitable rents in Bengal.

As regards item No. 4, this has not been adopted in the province at any time.

As regards item Nos. 5 and 6, these have been elaborately discussed in answer to question 53.

Q. 53. The agricultural rent in Bengal is neither competitive nor even customary. The rate is determined by Government.

During the Hindu and Muhammadan period, a definite share of the produce was the basis of calculation. During the period of Company management, competition played an important part in influencing rent in Bengal. After the great famine of 1769-70, there was dearth of peasants. The Government compelled the zamindars to court the peasants to undertake the cultivation of waste lands. "The resident cultivators had only to migrate a few miles to get land at low rates of rent." The cultivators gave terms which were lower than customary rate and the zamindars had to accept the terms. During this time, a class of raiyats known as vagrant raiyats grew up. They held lands at lower rates. They took settlement from one zamindar for one season at a lower rate, and if the zamindar tried to raise rent, they migrated to another place and settled with another zamindar at a lower rate than what was customary.

These vagrant tenants reduced the customary rent and the law of supply and demand worked with vengeance on the zamindars, and rent instead of going up to the level of economic rent settled down to the customary rate.

Then from 1859 onward, there was the reign of law. Rent was settled by the legislature on customary rate and the chances of enhancement were gradually reduced to nil. The principle that is accepted by the legislature is that rent in Bengal is customary and not competitive, and hence the provision of the prevailing rate is

made. The late Justice Dwarkanath Mitter observed that "prevailing rate" meant the "rate paid by the majority of the raiyats in the neighbourhood. The duty of a judge, when dealing with a case based on this ground of enhancement, is not to determine the prevailing rate, but to find out strictly the rate which has adjusted itself and is actually paid as "nirik" by a very large majority of raiyats."

The majority of them cannot be described as lump rents. Almost all rents have and are being settled according to a rate per measurement, and in every estate there are jamabandi papers for each jama. .In settlement records-of-rights the rental has been noted but not the rate. That they are not lump rents is also evident from the fact that they contain fractions in calculation, viz., annas, pies, or gondas, etc. Rates do not differ. Difference in rents is sometimes seen under the following circumstances. Almost in all estates, there was no estate survey (Ekandaj 1V e, for the entire mauza) before the district settlement. The jamabandi papers contain the total land, settled rate of rent, and the rent fixed after charcha jarip (partial survey). In tenants' "ledgers" total lands and total rents were noted. So no estate had any paper to identify the lands plot by plot so as to connect the said lands with the jama settled. During the last settlement operations, in all estates, it is seen that in the case of tenants holding two or more jotes at two or more different jamas, one jama has been recorded for the entire lands of two or more jamas and the other jamas are omitted. In many cases, where the khas lands of the zamindars are in abundance in a mahal, it is seen that a jama has been recorded for the tenanted land plus considerable portion of khas lands of the zamindars adjoining the said tenanted land. It is also seen that some portion of lands in a jote has been recorded rent free in a separate khatian and the jama has been for the the other portion and, after a few days, the tenant has made *estafa* of the jama or got it khas purchased by the landlord. It is also seen that, in the case of tenants holding two or more jotes at two or more different jamas, one jama has been recorded for lands of the said jote plus some portion of lands of other jamas and the other jamas are shown to contain higher rates. But the zamindars could neither prevent nor remedy the evil because of the absence of pre-survey papers for identification or for want of proof of encroachment on the adjoining khas land.

Q. 54. The poorer tenants have some regard for discipline and truth which in many cases are found wanting amongst the richer ones. The anomalies and irregularities as delineated in answer to the previous question have been in many cases possible because of the dishonesty of the staff, and the richer ones have been able to pay for the dishonesty, and so, in their cases, such difference is

usually seen but in the case of many poor tenants, their real jamas have been recorded. In other cases, where the mistake is bonafide, such difference is seen, irrespective of richness or poverty of the tenantry.

In many cases for the dishonesty of the staff of the jama and survey departments this has been made possible even at the initial settlement. In the zamindar's sherista, for a lesser quantity of lands, a jama is seen existing, but in the locality, the amin has given possession of bigger quantities and the settlements record has been made on the basis of possession. These are the main reasons for such difference.

Q. 56. According to the Hindu system, as mentioned by Manu, the king's share is to be one-eighth, or one-twelfth, while in time of emergency he may take one-fourth. With regard to the proportion actually taken at that time, there is considerable diversity of opinions. Sir George Campbell observed that the king took from one-tenth to one-eighth of the gross produce. Mr. Shore said one-sixth and others said something less than one-fourth of gross produce and Sir Thomas Munro said two-fifths.

In Emperor Akbar's time, Government were entitled to one-fifth of the value of produce. Before British rule, Sir George Campbell says, the State took from one-fourth to half of the gross produce, one-third and two-fifths being the most common occurrence. The famous Fifth Report of the Select Committee of the House of Commons presented in 1812 puts the State proportion at three-fifths. Mr. Shore gives two different opinions—his earlier opinion is that Government took one-third, but his later opinion puts Government share at from one-half to three-fifths. Mr. Elphinstone says, one-third is a moderate assessment and the full share is one-half. Mr. Grant says one-fourth is the proportion taken by the State and he considers the same moderate.

In view of the above, at least one-fifth should be the share recommended for universal adoption.

Q. 57. It should be alterable according to the money value of the produce.

Q. 58. There would not be any advantage in the substitution of an income-tax in place of rent; on the contrary, great hardship shall follow therefrom on the tenantry. Income-tax is generally fixed on speculative basis. The liability shall be fluctuating and, as such, agricultural debts shall gradually accumulate and there shall be no attraction for cultivation or improvement, and decline of the agricultural resources of the country shall ensue, and the situation shall be worse than what it was before the advent of British in India.

Further, a large proportion of the land in Bengal would escape the payment of revenue, and the said proportion shall steadily tend to increase.

Q. 59. Generally speaking, the fixation of fair rents within the framework of the Bengal Tenancy Amendment Act should be upheld. No organisation should be set up for fixation of fair rents at periodic intervals. In all cases, this should be done by Civil Courts, instead of by Revenue Officers as at present.

Q. 60. The landlord should get some share of the advantage derived from improvement arising out of fluvial action.

The reason is that the result of such action may be favourable as well as unfavourable and the productivity of land may either increase or decrease. As in the latter case, the tenant can demand abatement of rent. So in the reverse case, it is only reasonable that the landlord should get increment.

The fluvial action is an act of God, and the good or evil arising therefrom should be shared by all the partners in the business of agriculture. In Bengal under the Permanent Settlement, the State has parted with the whole bundle of rights in the soil and has reserved only the right to revive Crown dues in the shape of land revenue and as the amount of the latter is fixed under the Permanent Settlement the State is not entitled to claim any benefit out of the improvement from fluvial action.

Q. 61. No, we do not object.

Q. 62. Such discrimination is not feasible in practice. Further, such demands shall gradually tend to increase in large number and it shall lead to corruption and litigation.

Q. 63. No, we do not object on principle.

No, we do not apprehend so.

Q. 64. Such general provision of law irrespective of any consideration as to the classes of lands, their productive powers, crops they yield and the value they fetch, and the land revenue paid for the estate, shall not be of any practical importance to the country. One bigha of land in some locality may fetch for a particular crop an income of Rs. 120 per year; and on the other hand, another bigha of land in the same locality for another crop may not fetch an income of Rs. 5 per year. Such a general provision shall cause undue advantage to some and undue hardship to others. The existing provisions of law for reduction of rents are quite sufficient to give the tenantry legislative protection for reducing excessive rents.

There should not be any new provisions of law as contemplated in the question.

Q. 65. Matters concerning settlement and enhancement of rents, etc., should come within the original jurisdiction of Civil Courts and not Revenue Courts.

At present, in Chapter X, Bengal Tenancy Act, these affairs are dealt with by Revenue Officers at the original instance.

Q. 66. We do not know of any such case.

Q. 67. The revisional Settlements in the temporarily settled estates are usually made with the primary object of enhancing revenue.

Q. 68. In the case of permanently settled estates, there has been no case of unfair enhancements to our knowledge.

Q. 69. In the case of revision of the rents, the landlord is required to prove, if he wants enhancement, that the prices of principal food crops had increased during the preceding ten years and the tenants have gained additional advantage out of it without having made to pay any increment for that reason. So it is equitable that the tenant should pay increment even though in the period when such increment is actually realised the average price of food crop was going down.

At the same time, the tenant can at the close of that period, claim abatement of rent if he can prove that during the preceding ten years the average prices of staple food crops have been lower than those of the preceding ten years and such abatement would be allowed in this period even though the average prices of staple food crops were then on the increase.

Q. 71. No such remission of revenue has ever been granted by Government.

There are innumerable cases, recognised even in the official reports, in which the zamindars have granted remissions times without number, although they have suffered heavy losses.

Q. 72. From page 27 of the Bengal Provincial Banking Enquiry Committee Report, we find the following statistics:—

Name of crops.	Average cost of production.		Normal yield per acre.	Value of produce
		lbs.	Mds.	Rs. a.
Jute	92	1,331	16·2	145 12
Rice (cleaned) ..	47	1,022	12·4	82 2
Cane sugar (gur) ..	276	3,054	37·2	318 8

The ordinary peasant does not spend so much. The above cost is shown on the assumption that all labour, human and cattle, is paid for and hired. The average cost of cultivation will come down considerably.

In our opinion the figure for the yield appears to be much lower and the figure for average cost of produce appears to be much higher. Statistics should be as follows:—

Name of crops.	Cost of production.	Yield per acre.
		Mds.
Jute	72	24
Rice	15	20

Q. 73. Yes, the productivity of the soil in Bengal is on the decrease.

The reasons therefore are dealt with in answer to question 77.

The Government has not so far done anything or taken any step to improve such conditions.

Q. 77. From estimates of area and yield of the principal crops in India in 1928-29. We find the following statistics:—

Crops.	Area cropped in acres.	Total yield in maunds.	Harvest price per maund.		Price of produce.
			Rs.	a.	Rs.
Rice	21,403,000	271,152,000	6	10	179,63,82,000
Wheat	123,000	896,000	6	0	53,76,000
Barley	82,000	728,000	9	9	25,93,500
Jowar	4,000	28,000	3	0	84,000
Bajra	2,000	28,000	3	0	84,000
Maize	94,000	868,000	3	0	26,04,000
Gram	143,000	1,176,009	5	8	64,68,000
Sugarcane	196,000	6,088,000	8	9	5,17,86,000
Cotton	79,000	90,000	33	0	29,70,000
Jute	2,917,000	43,300,000	9	0	38,98,00,000
Linseed	132,000	532,000	8	0	42,56,000
Rape and Mustard seeds ..	700,000	3,444,000	8	12	3,01,35,000
Sesamum	153,000	644,000	9	0	57,96,000
Tobacco	291,000	3,416,000	20	0	6,83,20,000
Other crops	2,383,700	at say Rs. 30	per acre		7,15,11,000
Total ..	28,702,700				243,80,65,500

There are 6 millions of cultivating families, and if we divide the total value of crops produced, we get the average income of the agricultural family to be Rs. 406. The Provincial Banking Enquiry Committee has calculated Rs. 44, as the average annual income of an agricultural family from subsidiary occupations such as sale of cocoanuts, betelnuts, and other fruits, sericulture and cultivation of lac in Malda, Rajshahi, Birbhum and Murshidabad, poultry farming and sale of eggs by Muhammadan cultivators nearly in every district but principally in Noakhali and Chittagong; sale of milk and vegetables, rearing of goats and sheep, working as a boatman in northern and eastern Bengal. Thus the income amounts to Rs. 450 a year.

The said Committee also estimated the expenditure of an agricultural family to be Re. 420 a year thus:—

	Rs.	a.
Implements	3	10
Cattle	12	0
Seed	13	0
Manure	..	
Labour	40	8
Total ..	69	2
Rent and cesses and rates—		
Rent	25	0
Cesses	0	12
Commission	1	9
Rates	1	1
Total ..	28	6
Food	225	0
Clothing	35	0
Lighting	5	12
Tobacco and betel	7	12
Repair and renewal	12	0
Social and religious ceremonies	15	0
Miscellaneous including education, amusements, entertainment of relations or visitors	22	0
Total ..	62	8
Grand Total ..	420	0

Thus, if from the average income the average expenditure is deducted, a surplus of Rs. 30 is left per family.

According to the said Committee, the average rent of agricultural land is Rs. 4-13 per acre, and the average rent of a holding of 5·2 acres is Rs. 25, the cesses at half anna per rupee will be 12 annas. The total amount of union rates is Rs. 42,50,273 from the Union Board population of 19,856,117. This works at Re. 1-1 per family.

From the Survey and Settlement Reports, we get the average rent for ten districts to be Rs. 3-2-4 pies, from the following statistics:—

Districts.	Rent per acre. Rs.	a.	p.
Dacca	2	13	0
Mymensingh	2	12	0
Tippera	3	2	2
Bakarganj	4	8	10
Faridpur	2	9	2
Noakhali	4	4	5
Rajshahi	3	3	0
Jessore	2	7	5
Midnapore	3	15	5
Bankura	1	12	7

From the Hon'ble Revenue Member Sir P. C. Mitter, K.C.S.I., C.I.E., in the February session (1933) of the Bengal Legislative Council, we get the fololwing tables:—

Statement of the proportion of occupancy raiyats, rent to average gross produce per acre.

District.	Average produce per acre.	Average rate of rent of occupancy raiyat.			Approximate percentage of rent on value of produce.
	Rs.	Rs.	a.	p.	Per cent.
Bankura	47	1	12	0	4
Midnapore	48	3	2	0	6
Jessore	57	2	7	0	(about) 5
Khulna	60	3	6	0	5
Faridpur	50	2	9	0	5
Bakarganj	70	4	9	0	6
Dacca	60	2	13	0	(about) 5
Mymensingh	60	2	12	0	5
Rajshahi	55	3	5	0	6
Tippera	60	3	2	0	5
Noakhali	75	4	4	0	6

The average rate of rent of occupancy raiyats throughout the province is Rs. 3-2-4 pies per acre, and the average value of produce is just over Rs. 60 per acre, and the average annual income of an agricultural family, according to the provincial Banking Enquiry Committee is Rs. 350 as against the average annual expenditure of Rs. 320. The calculation of average rate of rent does not take into account the letting value of homesteads and the produce of homestead lands attached thereto.

It is also shown that, according to the Hindu system, Government was entitled to one-sixth of the value of produce and in Emperor Akbar's time to one-fifth. On the basis of the Hindu system 16·25 per cent. should be the rental, and on the basis adopted in Emperor Akbar's time, 20 per cent should be the rental. The existing rent which is only 5 or 6 per cent is an extremely moderate rate of rent.

From the same speech, we get the following:—

Statement of rental and produce.

	Crores approximate.
Total rental of occupancy raiyats	8
(1) Total value of rice in normal time (Rs. 1,81,89,27,805 in 1928-29)	182
(2) Total value of jute in normal time (1928) ..	40
(3) Total value of other crops will be considerably above 20 crores but for the present purpose it may be taken to be as low as 20 crores	20
Total ..	250

The total value of agricultural produce in normal times is thus at least 250 crores and is likely to be considerably more.

The total rental of occupancy raiyats being about 8 crores, the percentage of rent to the total value of agricultural produce is about 3·2 taking the province as a whole.

Further, at the time of agricultural prosperity of the province, the raiyats get the entire unearned increment and in view of the costly and cumbrous provisions for enhancement in the Bengal Tenancy Act, the landlords practically get nothing over and above their rents. But in times of depression, they are virtually blamed for the fancied crime of the realisation of their legitimate rents. Thus the land system of Bengal is not at all responsible for the present uneconomic condition.

The Bengal Provincial Banking Enquiry Committee says: "If we assume that the whole of the cultivated land in Bengal, viz., 23 million acres according to the return for 1928-29 valued at Rs. 300 an acre on an average belonged to agriculturists, their property was worth 690 crores of rupees. Thus even if a liberal allowance is made for intermediaries the Bengal raiyat is far from insolvent."

The following are some amongst the causes responsible for the present uneconomic condition of the raiyats:—

(1) *Pressure of population.*—This is the main cause which had been dealt with in answer to question 81. Therein, it has been shown that about 37·8 is the surplus. The Census Report of 1931 shows that the population is 51 millions in an area of 82 thousand square miles.

Mr. Beasmes, a Commissioner, said:—

"The raiyat suffers from causes over which no Government can have control; the country is overpeopled; and the intensity of the struggle for existence is due principally to this cause and not to the incapacity or bad management of the zamindars. Everyone will marry and will have heaps of children, no one will emigrate, a vast majority will grow nothing but paddy, and the poorest will spend in advance the earnings of ten years on a marriage feast or a religious ceremony."

(2) *Uneconomic holdings and fragmentation of interests.*—From the Settlement Reports, we find the following statistics:—

District.	Size of the average raiyati holding. Acres.
Bankura	1·86
Midnapore	1·26
Jessore	1·78
Bakarganj	2·51
Faridpur	1·39
Dacca	1·52
Mymensingh	2·67
Rajshahi	2·20
Noakhali	2·30
Tippera	1·90

The average for the 10 districts comes to 1·94 acres.

The Census Report of Bengal for 1921 says that there are 30·5 million cultivators. The cultivated area of raiyati holdings is 24 million acres. So, the size of a raiyati holding is ·79 per cultivator.

The smallness and fragmentation of holding is further facilitated by the growth of population and the law of inheritance, and involves a greater expenditure of capital and smaller return than if the same is in one compact block.

(3) *Defects in agricultural labour, equipment and organisation*—The cultivators are extremely backward, lacking in originality and initiative, and are malaria-stricken and diseased, and have become lethargic. The man behind the plough is the most important factor in the improvement of agriculture, and this factor is hopelessly defective.

There is no application of manure and fertilisers for increasing yield and the equipments for ploughing are primitive and unscientific, and the cattle power is exceedingly low. The province is maintaining an excessive number of cattle, poor and ill-fed and inactive, and the cattle power is exceedingly low. The province is main-statistics will corroborate the above:—

	Per 100 acres of net sown area.
	Number of cattle.
Bengal	108
Madras	66
Bombay	34
United Provinces	88
Punjab	57
Bihar and Orissa	82
Central Provinces and Berar	47
Assam	97
Burma	37
Holland	38
Egypt	25

(4) *Absence of credit agencies.*—They require more money at the time of cultivation which the present agencies cannot adequately supply.

(5) *The silted rivers in Bengal bring about appalling decline in agriculture, sanitation, etc.*—The Irrigation Department Committee, Bengal (1930), observed that the deterioration has already proceeded so far that it cannot now be checked and that central Bengal is doomed to revert gradually to swamp and jungle.

In malaria-stricken areas, the jungle is on the increase.

(6) *Water hyacinth pest.*—In eastern Bengal, the pest is causing havoc on crops.

(7) Bad roads considerably deter the economic developoment of the country.

(8) Want of rain water in due time is responsible for failure of crops in some years. As in other provinces, the agriculturists should be prevailed upon to use "Don" for irrigation on a miniature scale.

(9) Irrigation of the province has been seriously handicapped by construction of railway lines, without providing for proper drainage or outlets. Agricultural Department does not practically render any practical assistance.

(10) The Government policy is responsible to some extent. The lands are being taxed from day to day. Cess rates operate harshly on many agriculturists. Then, further taxation in the shape of education cess is also being imposed. The union rates are also on the increase from day to day. The principal commodities for daily use are also taxed, and the trend of such taxation is on the gradual increase.

The Government has made an arrangement to provide for marketing facilities and to effect adjustment of supply and demand.

The mighty and generous mind of Lord Cornwallis was concentrated on the improvement and extension of agriculture. He appreciated that unless moneyed men had encouragement to embark their capital in the purchase or improvement of land, the talk of such improvement and extension should be more academic than practical. So, he directed his energies towards making the capital and profit of such investment secure. But, since 1859 tenancy legislation after legislation is coming surging on the country, not with any object of improvement or extension of cultivation, but with the object of transferring the rights from superior interest holders to subordinate holders, and things have come to such a pass that the entire rights have passed from the zamindars to the raiyat without the transference of any portion of responsibility. Not only that, the recent tenancy legislations and the Bengal Agricultural Debtors' Act, and the workings of constitutional reforms, etc., have made the collection of rents an impossible task, but the rigid iron-frame of revenue laws has been left untouched and those have made not only the profit, but the security of the capital itself most precarious. The Government does not take the responsibility of improvement on its shoulders, and has passed legislation after legislation in such a way that moneyed men repent past investment and have no attraction for further investment.

From the official reports mentioned in answers to questions 3 and 7, it has been shown that the tenants were happy and prosperous, and the zamindars were exceptionally moderate, lenient and charitable towards their tenantry before 1885.

But, since the passing of the Bengal Tenancy Act, the economic status of the landlords and tenants has been seriously affected, and far from extension and improvement in cultivaton, there is clear apprehension of the province gradually becoming dreary jungles. The zamindars are discouraged and almost handicapped in the matter of improvement, and moneyed men have no inducement in the purchase or improvement of lands, and improvement of lands on an extensive scale is outside the financial scope of individual tenants, and the Government budget falls into deficit after disbursement under heads—salaries in various departments.

Since 1885, there is tooth and nail contest about division and distribution of rights over lands but nobody thinks for the land itself.

The following extracts from the Minute of the Chief Justice (The Hon'ble Sir Richard Garth), dated 6th September 1882, on the Bengal Rent Bill would show the chief wrongs inherent therein :—

"I take it to be clear that any Government in case of real emergency has a right, so far as it is necessary, to interfere with vested right, to whomsoever they may belong or howsoever they may have been created. But then I take it to be equally clear that without some such actual necessity no Government is justified in interfering with the vested interests of any class of its subjects, more especially when those interests have been created and defined after due consideration, by the State's own legislative enactments.

For myself, I see no such necessity; and I am bound to say that amongst the many complaints on behalf of the raiyats, which have been published by the Government in connection with this subject, I have been unable to find a single statement that raiyats themselves desired anything of the kind.

It was proposed for the first time by certain members of the Rent Commission and it is supported, as I understand, not upon the grounds of actual necessity, but because in the opinion of those gentlemen, the raiyats were or ought to have been in a better position some ninety years ago than they are now, in the interest of the State, to place them in that position.

The landlords complained principally of two things: first that the machinery of the civil courts was not sufficiently effective to enable

them to realise their rents in time to pay the Government revenue; and secondly, that either the provisions of the Rent Law were too strict, or the construction which the courts have put upon them too narrow, to enable the landlords to enhance their rents as readily and as largely as the legislature had intended.

The complaints of the raiyats were not so well defined. They appear to have been brought to the notice of the Government, not by the raiyats themselves, but for the most part by the executive officers, whose duty it was to quell the disturbances which arose from time to time in the agricultural districts, and to enquire into the cause which led to them. I believe, however, that I am correct in stating, that their principal matters of a complaint as disclosed in the published papers, were:—

Firstly, abuse of the power of distraint;

Secondly, illegal attempts to enhance rents, and to enforce the measurement of lands;

Thirdly, the imposition of abwabs and cesses in violation of the law; and

Fourthly, the refusal and the neglect of the landlords to give proper receipts for rent and their omission to keep regular accounts, which rendered uncertain the demands made upon the raiyats and gave rise to constant litigation.

But whilst I yield to no man in the earnest wish to see all necessary and wholesome reforms carried out, I confess I view with horror and dismay the revolutionary provisions of the present Bill. It appears to me absolutely cruel, to sacrifice want only and unnecesarily the rights of one section of the community for the supposed benefit of another; to violate laws and usage which have been sanctioned by the courts and the legislature for nearly century; to unrip a solemn settlement of vexed questions, which was made by the Bengal legislature no later than twenty years ago; and all this, not for the purpose of meeting any actual complaints, or rectifying any proved abuses, but merely to place the raiyats in a position which certain well-meaning but, as I think, mistaken, members of the Rent Commission imagine that they occupied in the year 1793.

The change to which I particularly allude, and which appear to me especially unjustifiable are the following:—

1st.—The unwarrantable extension of the right of occupancy as settled and defined by the Act of 1859;

2nd.—The arbitrary lines now sought to be imposed for the first time upon the enhancement of rents.

3rd.—The proposed rules in Chapter V to contract the letting of land for building purposes;

4th.—The transferability of raiyati tenures, with the consent of the landlord.

5th.—The exemption of occupancy tenures from being sold in execution for the debts of their owners; and,

6th.—The retrospective effect which is given to some of the proposed enactments entirely in favour of the raiyats and against the landlords.

What the zamindars of Bengal now ask is nothing more than to have their present undoubted rights duly enforced." They want no new privileges, and they certainly ask for nothing which the Rent Law of 1859 did not intend to give. They only want due payment of their rents, and such an enhancement of them from time to time as the Rent Law intended to allow. And how does this justify the Government in going behind the Act of 1859, and taking away from the landlords the rights which that Act gave them?

Now, if it is necessary, as a matter of public policy, to deprive the landlords of their rights, let us at least be honest about it, and say so, but don't let us attempt to thrust such a blind pretence down the throats of an intelligent people.

By the Acts of 1859 and 1869, the relations of landlord and tenants had been settled by the Bengal Government, and upon the faith of that settlement many thousands of estates had been purchased by the zamindars, and many lakhs of rupees expended upon those estates.

Now my object in drawing this comparison is two-fold. I wish to show;

1st.—How entirely the landlords will be deprived by the proposed Bill of their former rights and positions and how little interest they will have for the future in the welfare and improvement of their prosperity; and

2nd.—How completely the class of persons who in the future would hold the status of the occupancy raiyat would have the advantage, both as regards profits and control, over all others interested in the land. The profits and the power which you are taking from the landlord you are giving to the occupancy raiyat; and the liberty of contract which you think it is unsafe to entrust to the highest and best educated noblemen in the province, you are committing with the utmost confidence to the class who will fill the status of occupancy.

For these reasons I venture to think that the proposal of the Government with regard to the right of occupancy will not only be cruelly

unjust to the landlords, but will operate most injuriously to the very class which it is intended especially to benefit. You may change the law, but you cannot change human nature, nor secure the most valuable rights for the poorest class of the community. If the lot of the raiyat is hard now, you may be sure that it will be still harder if Mr. Reynold's Bill should pass into law.

The Collector of Jessore said "I consider the Bill to be a most arbitrary, partial and unjust measure. It will sever all friendly ties between landlords and tenants and lead to a state of things that must have disastrous results. There is nothing in it that will facilitate the collection of rents and very little that will do any real good to the raiyat. In fact, the Bill seems to have only one object and that is to stamp out landlords."

The Royal Commission on Agriculture in India in which the present Viceroy was the Chairman said:—

"Where existing system of tenure or tenancy laws operate in such a way as to deter landlords, who are willing to do so, from investing capital in the improvement of their land, the subject should receive careful consideration with a view to the enactment of such amendments as may be calculated to remove the difficulties."

The suggestion is that the entire tenancy legislation should be moulded in such a way as to encourage moneyed men to invest their capital in the purchase and improvement of lands and the facilities for speedy realisation of rents from undertenants, with less cost corresponding to their obligations for revenue, should be forthwith introduced. The present cess and union rates should be at once reduced and further imposition of education cess or other taxes should be stopped, Marketing facilities on co-operative basis should be provided for, and adjustment of supply and demand should be effected.

Sincere attempts for removal for water-hyacinth pest should be made, and the agriculturists should be imparted some training to irrigate their fields on a miniature scale by means of don.

Q. 78. This point has been dealt with in answer to question 77.

Q. 79. This Association does not consider it feasible to follow the system followed in the United Provinces for recording a statement as to the crop raised in every plot of land as the costs will be ruinously heavy. Nor this is at all necessary in permanently settled areas of Bengal.

Q. 80. This point has been dealt with in answer to question 77.

Q. 81. Yes.

The Census report shows that population is gradually on the increase—

Year of census.	Population. Millions.	Increase. Percentage
1872	34·6	..
1881	37·0	6·7
1891	39·8	7·5
1901	42·8	7·7
1911	46·3	8·0
1921	47·5	2·8
1931	51	5·1

A comparative statistics showing the density of population per sq. mile is given below:—

	Per square mile.
Bengal	579
Madras	297
Bombay	143
Great Britain	485
France	184
Netherlands	544
Denmark	194
United Provinces	414
Bihar and Orissa	340
Punjab	184
Germany	332
Italy	313
Belgium	654
United States of America	32

37·8, at a moderate calculation, appears to be surplus.

Q. 82. The pressure on the soil can be relieved by extending and intensifying cultivation, by emigrating the surplus portion and also by the diversion of population from agriculture to industries by starting Government-aided factories.

Q. 83. The mahajans of Bengal have so long helped the agriculturists to a considerable extent. Even though their rate of interest in

some cases was rather high, they served well in financing the agriculturists at the time of need, specially in the cultivating season.

The introduction of Bengal Agricultural Debtors Act has reduced the activities of the village mahajans to the great disadvantage of the agriculturists and to the prejudice of the agricultural interest of the province.

It is suggested that Government should at once repeal the said Act, and improve agricultural credit.

There is no efficient Government organisation, and the want was being amply supplemented by the mahajans up to this time.

Q. 85. The total agricultural debt for Bengal has been estimated at Rs. 100 crores.

The loans supplied by the co-operative societies amount to Rs. 4 crores only.

On the 30th June 1929, there were 16,889 agricultural credit societies with a membership of 407,552 and a working capital of Rs. 4,21,19,119. It touches only a small proportion of rural Bengal. It is found that the societies are established in only one out of 5 villages in the province, and the proportion of agricultural families benefited is only about one in fifteen.

Q. 86. The introduction of Debt Settlement Boards—an institution of compulsion without compensation—has intensified and aggravated the credit problem of the agriculturists and has threatened a sharp decline and disintegration to the agricultural resources and the economic structure of the province.

The agriculturists themselves resent this introduction and, having no adequate institutions in rural Bengal to finance moneys for cultivation and other purposes, have become absolutely helpless. As a result, many tracts in each district are left uncultivated and further continuance may be followed by dire consequences.

The Bengal Agricultural Debtors Act has supplied additional impetus and strength to the agrarian agitation and no-rent campaign, and has caused an all-round suspension of rent. It has a sinister disintegrating effect on the economic structure of Bengal. It has engineered a class-war and an all-round communist spirit—"Rent is payable when able; lands belong to those who plough, etc."

This Act has made possible for the debtors to evade the just obligations to the creditors.

Mr. H. P. V. Townend, C.I.E., Commissioner of Burdwan Division, at an annual Darbar recently held at Chinsura, has given expression to

his reading of the situation that has arisen in Bengal by the recent debt legislation in the following terms—"There are tendencies developing which threaten to lose more ground than work for village uplift can possibly gain. These tendencies are two in number and they are symptoms of one disease, which at bottom is nothing more or less than dishonesty—a tendency to defraud landlords by withholding rents and a tendency to defraud creditors by withholding payment of debts. Referring to the widespread nature of the tendency to withhold payment of rent he said, "It is interesting to speculate why this tendency to refuse rents has grown up. Undoubtedly it has its origin in the irresponsible electioneering speeches made by candidates of all parties who sought election to the legislature early last year. To get the cultivators' votes they spoke as if the interests of cultivators alone would be considered in future. There was talk of the abolition of the Permanent Settlement, which was understood to mean the abolition of all tenures, and everything possible was done to arouse discontent and to inflate expectations."

His Lordship Mr. Costello, Justice of the Hon'ble Calcutta High Court, in his judgment has described the Act in almost identical terms. The rigid iron frame of revenue sale law has been kept in tact. But the legislature has put a serious hindrance to the landlords in realisation of rent by bringing rent within the scope of the said Act. This Act operates very harshly on the landlords. When rent has been included it is equitable that revenue also should have been included within its scope. By introduction of this Act, impressions have gained round in the mahals that landlords have no legal remedy at their disposal for realisation of rents and some portion of tenantry take advantage of this Act, and the rest await institution of suits as an opportune occasion to avail of it.

Q. 87. The suggestion appears to be inoffensive.

Q. 89. Yes. The machinery is costly, cumbrous, unnecessary, harassing and expensive.

From institution up to satisfaction, in a rent suit, there are three stages:—

(1) *First stage.*—Institution of suit up to a decree.

For institution of a rent suit, an ad valorem court fee of Rs. 11-8 per cent. on the claims is affixed on the plaint, and a court fee on vakalatnama, and process fees at the rate of annas 4 generally per defendant in munsiff's court, and annas 8 per defendant in the Sub-Judge's court, and boat hire and conveyance charges at one-fourth of the said process fees.

Then, if the suit be decreed *ex parte*, a certified copy of the decree is necessary for execution. Pleader's fees at the rate of Rs. 5 per cent. in contested cases and Rs. 2-8 in *ex parte* cases are charged.

(2) *Second stage.*—Execution of decree up to khas purchase and taking of sale certificate.

After decree, the court becomes *functus officio* and does not look to realisation.

Then, petition for execution is filed with a court fee of annas 12 and a court fee of Re. 1 on vakalatnama and with process fees at the rate of annas 4 per defendant in Munsiff's court, and annas 8 per defendant in the Sub-Judge's court, and boat hire including conveyances at one-fourth of the said process fees.

Further process fees at the rate of Rs. 1-8 for claims upto Rs. 50 and at the rate of Rs. 2 for claims above Rs. 50 for attachment of movables, and Rs. 7-8 custody fee for attachment of movables over Rs. 20. For sale proclamation a process fee of Re. 1 and a drum charge of annas 8 is needed. Further advertisement costs in the local newspapers are necessary.

Further registered post cards per defendant at the rate of annas 5 are necessary.

When the jotes are put up to sale, Rs. 2 per cent. on the amount bid are necessary. If the jotes are khas purchased by the landlords, a further petition with a court fee of annas 12 in claims over Rs. 50 and annas 2 in claims below Rs. 50 is necessary.

Then a stamp at the rate of Re. 1-8 on the amount bid is necessary for taking sale certificate. Then the court ceases to function again.

(3) *Third stage.*—Filing of petition with sale certificate up to delivery of possession.

A petition with a court fee of annas 12 and a process fee of Re. 1 and drum charge of annas 8 is necessary. Then the peon goes to the locality and gives symbolical possession by putting a bamboo peg (jhanda) on the ground.

Here the tenants do not part with possession and continue in possession. Here the court draws a fine distinction between symbolical possession and actual possession, and the criminal court generally finds that the actual possession rests with the tenants and finds in their favour.

Then the landlords have to file a title suit with court fees at the same rate on the value of the land and with identical costs and take possession with identical result.

On the 9th January 1794, the Collector of Burdwan in a letter to the Board, assigned reason for inability of the Burdwan Raj to discharge the responsibility for punctual payment of revenue, unless "He (Raja) be armed with powers as prompt to enforce payment from his renters, as Government had been pleased to authorise the use of, in regard to its claims, on him."

On the 12th of February, 1802, the Collector of Midnapur reported to the Government that the system of sales and attachments which has been substituted for it has, in the course of a very few years, reduced most of the great zamindars in Bengal to distress and beggary, and produced a greater change in the landed property of Bengal than has perhaps ever happened in the same space of time, in any age or country, by the mere fact of internal regulations...........

It was notorious that many of them (zamindars) had large arrears of rent due to them which they were unable to recover, while Government were selling their lands for arrears of assessment. Farmers and intermediate tenants were till lately able to withhold their rents and to set the authority of their landlords at defiance. Landholders had no control over them, except through the courts of justice and the ends of substantial justice were defeated by delays and costs of suit.

The famous Fifth Report of the Select Committee of the House of Commons acknowledges that large number of public sales was due to the "Unavoidable consequences of defects in the public Regulation combined with inequalities in the assessment, and with difficulties obstructions and delays with which many nice distinctions and complex provisions of the new code of Regulations were brought into operations."

The slow and costly progress of civil suits under cumbrous buttresses of civil laws cause considerable handicap and expense in the realisation of rents from tenants, while the Government has summary procedure for speedy realisation of its demands from the zamindars. This inequity and injustice has been the cause of ruin to many landlords and tenants.

Sir George Campbell observed:—

"To any one who should follow any land suit, taken at random from the files of our courts, in its inception, origin, and progress through many appeals to final decree and then should observe how the attempt to carry out the decree breeds half a dozen new suits, the wonder must be how any people can tolerate such a state of things."

Suggestions—

A machinery similar to that applicable to patni tenures should be introduced. Just as in a patni sale case, the landlords should be

authorised to apply before the Collector on the last **kartic** and last baisack for sale of raiyati holdings and tenures with identical procedure for realisation of current rents.

For realisation of arrear rents, the Court should proceed, as in certificate cases, in one continuous proceeding without break till satisfaction of the decretal dues, and the procedure available in certificate cases should be introduced. After decree, the Court shall give a date within which the decretal dues should be paid, and in default of payment within the said date the landlords shall have right to re-enter on the jote and to get automatic possession.

The English law practice of declaring the defaulter a trespasser as soon as default is made should be introduced here by local legislation. This is the easiest method of speedy realisation of rents at the least cost and trouble to either side.

Q. 90. It is neither harassing nor objectionable. In certificate cases the tenants can file identical written statements as in rent suits, can adduce identical evidence as in rent suits. In rent suits, there are three stages, and at every stage, the landlords shall have to move the court for further continuance:—

(1) *First stage.*—Filing of petition for execution of the said decree upto khas purchase.

(2) *Second stage.*—Filing of suits upto a decree.

(3) *Third stage.*—Filing of petition for publication of sale certificate upto delivery of symbolical possession.

In a certificate case, the work of the aforesaid three stages are done in one continuous proceeding and more promptly. Save and except in respect of prompt and speedy disposal, the certificate and the rent suit has no difference in substance in any other direction.

Q. 93. Vast tracts of lands shall pass to the non-agriculturists, and landlords' fee was a check and preventive on involuntary transfer, and the tenants shall not be benefited in the least by such legislation, and, on the contrary, they shall be seriously prejudiced by rush of involuntary sales in consequence of removal of the check.

The economic conditions of the landlords shall be seriously affected by such legislation without benefit to the actual cultivators of the soil or the State.

The loss of landlords' income under the head may be estimated at about 40 lakhs of rupees every year. In 1935-36 the amount realised as transfer fee amounted to Rs. 38,64,222.

The transfer fee is to be regarded as the symbol of the ownership of land being vested in the landlord. The abolition of the fee is the abolition of that symbol as well. The abolition of the transfer fee amounts to the expropriation of the sacred right of the ownership which was vested in the zamindars by the Permanent Settlement Regulation of 1793.

The estates have been bought and sold during the last 150 years on the basis of the income which was derived not merely from rent, but also from this perquisite. The market value of the zamindaris, taluqs and tenures is lessened by such abolition.

Reply by the Khulna Landholders' Association.

Q. 1. The terms of the Permanent Settlement are clear and simple. So far as we can gather, from time immemorial, Rajas and zamindars were the proprietors of the soil and tenants held land under them. There appears to be no codified law, defining the duties and liabilities of the parties. So far as we can gather, raiyats had hereditary but non-transferable interest in the land. The Rajas and zamindars were something like feudal chiefs. The Rajas and zamindars maintained internal law and order and there was very cordial relationship between the parties. During the Muhammadan time, as can be traced from history, demands were occasionally made of zamindars for additional revenue for their estates. After the grant of Dewani to the East India Company in 1765, the same state of things as to the relation between the landlords and tenants continued. Nothing new was done to change the old state of things nor any necessity was felt for that. Land revenue was fixed temporarily and on many occasions annually with these hereditary Rajas and zamindars; but there was no law before, that failure to pay Government revenue would entail the sale and loss of the estates. There was no regular payment of Government revenue at any stipulated time. This system of irregular payment and periodical revision of revenue proved troublesome and disadvantageous to the East India Company which decided upon fixing the revenue of estates for perpetuity and fixing the time of payment of revenue strictly. In doing so no question arose to define the rights and liabilities of the tenants and landlords. It was left where it was. After the Permanent Settlement was concluded, the duties and liabilities of the tenants and landlords came up for consideration, and Act X of 1859 was passed. Subsequent legislation, Act VIII of 1885, considerably improved the status of the raiyats and clearly defined the rights and liabilities of the tenants and landlords and the legislations of 1929 and 1938 have gone too far, rather to encroach upon the rights of landlords enjoyed from time immemorial. No provisions of law in human affairs can or could be exhaustive. It is clear from subsequent legislations, that after the Permanent Settlement was concluded, the duties and liabilities of the zamindars conferred thereby were not considered exhaustive.

The cultivating tenants were never before proprietors of the soil but they had hereditary right in ordinary cases to hold the land.

It does not transpire from any provision of the Regulation I of 1793 that any existing rights of the tenants were touched or taken away.

Q. 2. It does not seem that the Permanent Settlement gave any new rights upon the then existing tenants. This view gets its corroboration from section 6 and section 160 of the Bengal Tenancy

Act, 1885, when for the first time the rights and liabilities of the tenants and zamindars were more clearly defined. But as regards waste and uncultirable lands, which were to be newly brought under cultivation, the zamindars got wide powers to choose their tenants. They were entitled to let out lands to whomsoever and in whatever way they liked. It appears from public records that they were also authorised to enforce tenants to produce more profitable crops than they had hitherto done.

Q. 3. It does not appear that by the Permanent Settlement any function, other than payment of revenue at the stipulated period, was expected from the zamindars. But from the tradition of their position as feudal chiefs, they looked after the welfare of their estates and tenants admirably well. They maintained internal peace and order to a great extent, which can be traced from the fact that even to this day zamindars or their agents settle petty disputes and troubles in large numbers, arising amongst their tenants—thus saving them from ruinous litigations. They helped their tenants by way of loan in time of distress, in case of failure of payments of rents by waiting till the limitation time of 4 years, although they were to pay their revenue kist by kist, taking bonds for dues which were going to be time barred without bringing upon them litigation costs. In very many cases no notice is taken of the limitation law for realisation of rents from raiyats and tenure-holders paying comparatively smaller rents and allowing them to be time barred and subsequently realising them amicably. The landlords have contributed much towards cultivation of waste lands by erecting embankments and damming khals, to improve cultivation. Before the establishment of district boards they were the zamindars who largely constructed the roads and excavated tanks within their estates. Almost all the private schools and colleges of Bengal, charitable dispensaries and buildings for humanitarian purposes, owe their origin to the liberal gifts of the landholding classes and they have always helped the State by benevolent gifts in acts of public utility. Their gifts in time of general distress attended with, cyclone, famine and earthquake, are often generous and too often acknowledged by the Government. On the whole it appears that although there was no legal obligation upon them, the zamindars very well contributed towards the economic development of the country.

Q. 4. The ruling Chiefs, zamindars and Rajas from time immemorial in this country were the actual proprietors of the soil. Nothing can be traced out to assert or substantiate that the cultivators were even the actual proprietors of the soil. The cultivating raiyats in most cases had hereditary rights in land but their tenancies were non-transferable. It is not a fact that the Permanent Settlement converted the collectors of revenue into proprietors of soil. Before the Permanent Settlement there were ruling Chiefs, hereditary Rajas and zamindars who were the actual proprietors of the soil with far larger rights

and powers and there were also a class of landlords who were, as it appears from history, to some extent collectors of revenue. But the Permanent Settlement all of them were brought to one level and category.

Q. 5. It is patent that the annulment of Permanent Settlement would be a breach of the solemn pledge given by the East India Company to the zamindars with ratification by the British Parliament. Before the Permanent Settlement the ruling Chiefs, Rajas and zamindars were the hereditary proprietors of the soil exercising far greater powers than those conferred by the Permanent Settlement or subsequent legislations. At a time when the East India Company was greatly economically embarrassed, it was the Company who thrust upon the zamindars the so-called boon of Permanent Settlement at an exhorbitant revenue, bearing a very small margin of profit to them from the collections of rents from tenants. Had there been no Permanent Settlement, the zamindars had to lose very little. It seems to us that to shelve the miseries that came upon the zamindars by the introduction of the Permanent Settlement and the new law of putting zamindaris to sale in case of default of payment, it was trumpetted as a boon as a sort of propaganda. No doubt they got a valuable new right as to fixity of their revenue but that at such an exhorbitant revenue that most of the hereditary zamindars and Rajas of ancient families were deprived of their zamindaris and were reduced to beggary (*vide* report of the Collector of Midnapore, dated 12th February 1802) due to sale of their estates for inability to pay the Government revenue. There passed a period of untold miseries. New sets of landlords came in by purchase in revenue sales of the rights of the former zamindars (this could not be done in the Muhammadan time). They spent heavy sums of money for improving their estates by reclaiming waste lands, raising embankments, damming khals and rivers, cutting jungles and introducing new tenants thereon, even helping them pecuniarily for meeting their cultivation costs and for purchase of cattle. As with the gradual increase of revenue the position of the zamindars began to be easier, acquisition of zamindari right began to become a charming thing. Many people who could accumulate wealth by service or following some other profession or business, thought it profitable to invest the whole of their life's savings in purchasing zamindari rights for the upkeep of their family members. Gradually the price rose up with the gradual increase of number of intending purchases by competition. Now by the lapse of nearly a century and a half when the position of the zamindars have been greatly adjusted, it will be certainly a moral and legal wrong to propose abolition of the system. It is no argument that the tenants were no parties to the Permanent Settlement. Tenants had nothing to suffer or gain by the Settlement. No provision whatever was made against their interest. The sovereign power had the authority to vary

the revenue of the zamindars from time to time. A contractual *relationship was created between the sovereign power and the zamindars,* that the former would not vary the revenue in future and the latter promised to pay it at stipulated times on pain of their zamindaris being sold away in revenue sale in case of default of payments. History proves that they were not declared proprietors of the soil for the first time then nor the tenants were even proprietors of the soil before this nor proprietary rights of the tenants were snatched away behind their back and delivered to the zamindars.

It no doubt shows that the present revenue derived from tenants leaves a good margin of profit to some of the landlords but this is the outcome of the labour and capital invested by them for the improvement of their estates. Investments in banks and Government securities individually may similarly be assailed to some extent that big accumulations by some individuals are detrimental to the economic development of the country. The interest on the purchase money of the zamindaris and tenures by Government, comparatively bigger establishment cost for collection charges, and fluctuation of realisation of rents from ordinary raiyats, loss of road and public works' cesses—all these taken together will not leave a very high revenue for Government than that which the Government is getting now.

Q. 6. After the Permanent Settlement the zamindars had to be too eager to increase their revenue in order to pay the exhorbitant demand of public revenue fixed upon them. They could not wait for the increase of population to help them in reclaiming the waste lands. They had to spend much labour and money and the tenants had to lend their labour to reclaim the waste lands. Gradual increase of population helped in letting out newly reclaimed lands at a higher rate of rent offered on competition.

Q. 7. The increase of tenants' assets are due to (*a*) reclamation of waste and patit lands, (*b*) with the gradual increase of price of agricultural produce the lands were let out at a much higher rate of rent than it was at the time of the Permanent Settlement, and (*c*) increment of rent of all grades of tenants under sections 52 and 30 of the Bengal Tenancy Act, but it is not possible for us to say how much has been increased under each head.

Q. 8. At the time of Permanent Settlement, it cannot be said that the Government showed any generous treatment towards the zamindars. Almost the whole of the assets from tenants was appropriated for Government revenue leaving a very low margin of profit to the zamindars. They could not and perhaps did not increase the rent of the tenancies existing at the time of Permanent Settlement. As regards rate of rent of tenants certainly they were more generous to their tenants than the Government had been to the zamindars. As a matter of experience and

common knowledge big zamindars very seldom took resort to increasing the rent of raiyats under the provisions of the Bengal Tenancy Act. Tenureholders having smaller areas under their charge increased the rate of rent of tenants under the provisions of law. But the conduct of zamindars and landlords have always been generous to their tenants. It will transpire from the statistics supplied to us that the income of tenants from produce of land in Bengal, is much higher than in any other province in India and excepting the province of Orissa (which was of late a part of Bengal) the rate of revenue of land in Bengal is much lower than that of any other province of India and in Bengal on the other hand the rate of rent of land of tenants under the permanently settled estates is much lower than the rate of rent existing in the temporary settled areas, whereas the rate of rent prevailing in the Government khas mahal is much higher than the rate of rent existing either in the permanently settled area or in the temporary settled area. The zamindars and tenureholders showed much more generous conduct towards their tenants than the Government did to their tenants, where Government is the zamindar as well. As regards the realisation of rent, the zamindars and tenureholders are much more lenient than the Government are towards their tenants in the khas mahals. There is much more cordial relationship even now existing between the private landlords and their tenants but as regards Government khas mahals practically there is no such relationship at all. The collecting officers in Government khas mahals pay very little care to the welfare of the tenants. The khas mahal tenants practically get none to approach to for the remedy of any troubles they are put in. In times of troubles, tenants in the permanently settled areas get loans and substantial help from their landlords. The lands of the original tenants of the Government khas mahals have been sold away in certificate sales to a far greater extent than it has been done in the permanently settled area.

Q. 9. We have already replied that the present profitable position of the zamindaris came out of the exertions made and capital invested by the zamindar with the help of their tenants. The terms of the Permanent Settlement are clear and it appears that no other specific duties were imposed upon the zamindars. But keeping consistency with their traditional duties they did enough towards construction of roads, excavation of tanks, establishment of schools and dispensaries, establishing religious temples and maintaining them, and helping in every way by acts of public utility. The name of charitable zamindars of old days such as Rani Swarnamayee, Rani Bhabani, Mahammad Mohsin, &c., are still remembered with respect. Instances are not wanting that charitable zamindars such as Maharaja Manindra Chandra Nandy and others spent the whole of their princely income towards charity and incurred very heavy debts for the purpose. From the time

of the old Hindu Rajas down to the time of the first part of the British administration the relationship between the zamindars and tenants was very intimate and cordial. Zamindars lived in simple style and felt proud in spending the whole of their income towards the good of the people. It is only after the spread of English education in this country and the desire for imitation of European mode of living, that the zamindars were not so freely accessible to their tenants and the zamindars began to think of their income in a business-like way.

With the increase of international trade in the country from some 50 years ago the price of agricultural produce began to rise higher up. The standard of living of people was raised to an extent never known in the history of the country. With the rise of price of paddy and standard of living, every section of the community raised the price of their labour and industry. Zamindars could not and did not raise their income. They could not cope with the situation unless their income was proportionately increased, and having regard to their prestige and position in life, they began to be involved in debts to maintain their former style of living and ceremonial functions, till they found that it was not possible for them to live in their native villages maintaining their former position in life and chose to live in towns and other places away from their tenants and society. There are, no doubt, cases where some zamindars chose more comfortable town life where better education and medical help were available for their family and children. Many new persons carrying on trade and business in big towns began to purchase zamindaris of old zamindar families, and necessarily they had to be absentee zamindars. The result was that the tenants became out of touch with the zamindars and in some cases oppressions were made by officers upon the tenants. This was the state of things some years ago but nowadays it is unthinkable, except in very rare cases, that any officers of zamindars can with impunity oppress upon the tenants. The tenants have generally got the upper hand nowadays and payment of legal rent and cesses is to some extent at the mercy of the tenants. The greatest evil, which we find in the absenteeism of the zamindars, is that it has given scope for spread of communism amongst their tenants by irresponsible political parties and agitators, who are more keen to their selfish interest than any real good to the country. These agitators impress upon the tenants imaginary causes of grievances which they themselves cannot appreciate

Q. 10. Permanent Settlement when made was no doubt made to the interest of the State and to the benefit of the country and it had resulted in the more prosperous conditions of Bengal (including Orissa) than that of all the remaining provinces of India. The statistics supplied to us will themselves bear it out as noted in our answer to question 8. Rate of rent of tenants of Bengal is much lower than

that of the tenants of all other provinces. The income of land is also much higher. The Permanent Settlement gave scope to the creation of large number of middlemen who are the backbone of the society in knowledge, education, culture, arts and industries. The proportion of profits of landlords and tenants as given in Statement No. X, speaks very favourably for tenants. Overpopulation in East Bengal and southern Bengal has caused too many divisions of raiyats' holdings and most families do not own as much quantity of land as is required for their maintenance. In such cases further reduction of rent or even making their holdings rent free cannot give them any relief so long they do not get the minimum quantity of land sufficient to maintain their families.

In some parts of Bengal, such as portions of the districts Jessore, Nadia and 24-Parganas, depopulation has added greatly to the cause of the poverty of the agriculturists. Lands, which up to some 100 years back, were good paddy lands have gradually been raised to much higher levels unfit for paddy cultivation and agriculturists are growing poorer there for want of sufficient paddy lands. Different causes such as want of means to convert those land to horticultural purposes and silting up of rivers had affected agriculturists in different localities. State took little or no notice of these facts and did very little to improve the position of the agriculturists. In this district the condition of the tenants in the temporary settled estates and Government khas mahals are far worse than that of the tenants in the permanently settled estates. Had there been no Permanent Settlement, the condition of the tenants would have been equally worse as in temporary settled estates and Government khas mahals.

Q. 11. (*i*) The accusation is malicious and untrue. Landlords will be too glad to get 20 per cent. of the income from land and will challenge the agitators to come to a compromise on that basis. The Statement No. X shows that landlords get only 9 per cent. of the income of land. The rate of rent in this district in permanently settled area varies from Rs. 3 to Re. 1 in most cases. C. S. parchas and allotment papers of estates Nos. 67, 124, etc., and of many other old zamindaris will verify our above statement. Rate of rents of tenants under tenure-holders is of course generally higher than the rate of rent of tenants under zamindaris, but even that rate of rent due to tenureholders are much less than the rates of rent existing in other provinces and even in this province in temporarily settled estates and Government khas mahals.

(*ii*) We cannot subscribe that Permanent Settlement is the only cause of subinfeudation. Before the Permanent Settlement there were such subinfeudation. From quinquennial papers it will appear that

there were many tenureholders under the zamindars at the time. Even temporarily settled areas, where by the terms of lease farmers are prohibited from creating middle interest, they as a matter of fact, create such tenures as will appear from settlement records. Subinfeudation owes its origin to the cause that it is not humanly possible for big zamindars and tenureholders to bring all the waste lands in their zamindaris and tenures under cultivation at their own expense. Knowing full well that the rent fetched by the creation of such tenures brings them lower rent than that of cultivating raiyats, they prefer to do it in order to bring the waste lands under cultivation at the cost of others. Government also make temporary settlement of waste and jungle lands with farmers, with provisions for malikana to them, with the object of avoiding heavy costs to bring the waste lands under cultivation at the cost of the Government. Unless these big areas of waste lands were reclaimed at the cost of these men, no cultivating tenants could undertake to cultivate a small portion within the area by damming khals and erecting embankments. After these farmers and tenureholders bring the waste lands under cultivation at heavy costs, and induct tenants on the land at a higher rate of rent, critics then come forward with the complaint that they are parasites and they enjoy a considerable portion of the produce of the land which might have been diverted to some other useful purpose of the society. It is a common knowledge that many persons have been ruined altogether after incurring heavy costs and debts in failing to reclaim the land demised to them. Whatever it may be, the tenants can have no cause of grievance against this class of middlemen. Tenants only pay the rent to these tenureholders which they othewise had to pay to the zamindars or the Government. It is common knowledge that cultivating raiyats much prefer to hold lands under these class of tenureholders than under big and influential zamindars and Government. Many zamindars under necessity are compelled to create patni tenures over portions of their zamindaris in some cases to save the entire estates from ruin; in other cases for facility of collection of rents at a less collection charge and such other causes. By creation of tenures and under-tenants, the income of the cultivating tenants have not in any way been impaired. The income has been carved out of the profits of the zamindars. These tenureholders have in turn contributed much to the welfare of the tenants and the society, in the same way as the zamindars have done.

(*iii*) This complaint does not find its footing simply on the fact that the rate of rent of raiyats is much lower than that of tenants within the temporary settled estates or Government khas mahals.

(*iv*) This criticism is of recent origin by political agitators. It is not the complaint of real cultivators. In some cases landlords were no doubt oppressive and in most cases they were very lenient to their

tenants. Advance of money in time of necessity, rendering necessary help at the time of trouble and distress, leniency in the mode of realisation of rent—all these factors have created a good deal of respect of tenants for their landlords. The complaint of overlordship of landlords over their tenants, is nowadays, a ridiculous one. Constant agitation by political leaders has made it difficult for the landlords to realise their just dues, far less to exercise any act of overlordship.

Q. 12. There is no case for the abolition of Permanent Settlement on any of the causes enumerated in question 11.

Q. 13. (*i*) No doubt at present there is a good margin of profit to the landholding classes collectively. But the condition varies with different estates in different areas. In those districts where large areas were water-logged at the time of the Permanent Settlement, the revenue of those estates in those districts is much less in consideration of the rent realisable from tenants. On the other hand in those districts or portions of them where the lands were mostly culturable at the time of the Permanent Settlement, the margin of profit is not considerable. Whatever it may be we do not think that the margin of profit of the landlords is at present 75 per cent. Landlords are to pay road and public works cesses at the rate of 1 anna, i.e., 1/16th of their net profit. They are to pay collection charges and incur costs of embankments and damming khals. They are to incur heavy costs of litigation for realisation of rent, considerable portion of which is out of court and is not incorporated in the decree. They are to pay generous contributions for acts of public utility. Many of the present zamindars owned their estates by purchase, by investing large sums of money which would have fetched considerable income if they were otherwise invested in Government securities or deposited in banks. If these matters be considered it does not appear how 75 per cent. of the rents of the tenants go to the landholding classes. If the estates and tenures be purchased by the Government, Government will have to spend an enormously heavy amount, for the collection expenses of Government would be much higher than that of the zamindars. There will be loss of cesses, which are now realised from landholders, and other contributions in various shapes. We apprehend there will be very little actual increase of revenue of the Government by such purchase.

(*ii*) By the cancellation of the Permanent Settlement and substitution of temporary settlement in its place, matters will not improve. Things will be left where they were before the Permanent Settlement and the condition of the tenants will be much worse. As a matter of fact by periodical revision of rents of tenants their rate of rent will inevitably be increased. The rate of rent of tenants of the rest of the provinces will justify our observations. Abolition of Permanent

Settlement would be better than substitution of the system by temporary settlement.

(*iii*) We are strongly against the proposal of levying income-tax upon zamindars' agricultural income. The position of the landholding classes has already been precarious. Much is being talked of nowadays about the indebtedness of the agriculturist but nothing is said of the indebtedness of the landholding classes. The landholding classes are overburdened with debts. It is high time for an enquiry about the cause of their indebtedness. Indirectly, in violation of the terms of the Permanent Settlement the landlords are to pay road and public works cesses out of their profits. There is a Bill in the Legislative Assembly for payment of education cess. Further imposition of income-tax upon the landlords' agricultural income will be the last straw on the camel's back. If the system is to be retained, the zamindars should not be saddled with further taxes and provision should be made for relieving them of their liability of collection of road and public works cesses and education cess, etc., from their tenants. If they are considered as an evil to the society, the system should be altogether abolished and their interest should be purchased by the State at an adequate price.

Q. 14. If the abolition of the Permanent Settlement be deemed preferable, the zamindars should get proper compensation. In many cases the money paid at the time of the purchase of zamindaris and the money spent for redemption of encumbrances thereupon will be a good criterion. It is desirable that they should be paid in cash. In many cases they will have to pay the mortgage debts on the estates incurred by them. The maximum value may be suggested at 25 times the nett profit. In many cases the value will be less. It is not possible to give a definite standard for all cases. Most of the zamindars are overburdened with debts by mortgaging their estates, and if they do not get cash price for their estates, they will be troubled by the creditors and Government will have to purchase the estates and tenures subject to encumbrances bringing in a social revolution in the country. It is not possible for us to make an estimate of the total sum which will be required by the Government to pay up the interest of the different landholding classes.

Q. 15. If bonds be given for the price of the lands purchased it will be a great hardship in many cases as we have pointed out in our reply to the previous question. The bonds should be redeemable, say, within 15 or 20 years. The rate of interest will be ascertained in consideration of the profits. The landlords will have to lose.

Q. 16. A very large number of village disputes are even now settled by the zamindars and their agents. The tenants will have to resort to law courts for decision of such disputes—litigation costs will be inconceivably increased.

A very large number of people having moderate or little education now serving under the landlords will be out of employment and comparatively a very small number with much higher pay will have to be employed by the Government in their places.

Peace and order in the villages will be at stake. The tenants now holding under the landholders will have necessarily some sort of grudge against persons to whom they are liable to pay. This grudge will be diverted from the landholding community to the Government themselves and there will be a very good field for the political agitators to rouse the masses against the Government. In fact we apprehend that this is the guiding motive of the Congress agitators nowadays and the Proja party agitators perhaps have taken up the programme to show to their constituents that they do not stand behind the Congress party in this matter.

Constant fighting will continue amongst masses with nobody to check them.

Tenants, from time immemorial, unaccustomed to pay rent at a stipulated period, will fail to pay and their holdings will be sold away in large numbers. During a century and a half after the Permanent Settlement, the society has come to a settled state. An utter chaos will follow the abolition of the Permanent Settlement.

Q., 17. If the Permanent Settlement be abolished, there seems no necessity for retaining middle interests. In that case the interest of the middlemen should also be purchased by the State and the raiyats should come directly under the Government. We have already pointed out that this system will create a revolution in society and great chaos will follow. The masses will be easily under the influence of political agitators and unreasonable agitations and troubles will be the course of the day.

Q. 19. We are definitely of opinion that the raiyats, to speak generally, are no party to the agitations for abolition of the Permanent Settlement. Our recent enquires in the matter prompts us to give the reply. They will abhor the idea of paying rent directly to the Government. Tenants generally are not accustomed to pay their rent kist by kist. In many estates, even now, interest is not realised for arrears of rent. Landlords generally bring rent suits when the claim of rent goes to be time barred. Even in many cases, landlords abstain from suing them after getting a bond for the portion of rent which was going to be time barred. They get easy loans in times of distress. They get easy access to their landlords for any relief. They will be deprived of all these advantages if they are placed direct under the Government. They are political agitators who are pushing on the agitation in the names of the tenants but the actual raiyats are really far away in the fields and even ignorant as to what is happening on

the floors of the Council. The khas mahal raiyats are in a far more disadvantageous position in the above mentioned matter than the raiyats of the permanently settled or temporarily settled estates.

Q. 20. We have already replied to this question in connection with our reply to question 11. There was subinfeudation from before the Permanent Settlement. Of course, the Permanent Settlement has given a further push to the system.

We do not think that the creation of tenures has, in any way, affected the position of the raiyats. The raiyats get easier access to and help from this class of landlords.

Q. 21. The purchase of the tenures by the State will create similar situation in the country as we have enumerated in our reply to question 11.

Q. 22. As regards their khas lands and homesteads they will be considered as raiyats under the Government. Assessment of rent will have to be made at a lenient rate of rent keeping in view the fact that they will have to cultivate their khas lands through others and cannot pay the same rate of rent paid by actual cultivators of soil.

Their rent will be in proportion to the rent they previously paid for the lands of the parent estate. The criterion of ascertaining their khas land will be what land they occupied in khas possession, by constructing homesteads, by horticulture, by cultivating through hired servants or bargadars and by making Gula Settlement for consumption of paddy for family purposes.

Q. 23. We are of opinion that the occupancy interest of raiyats is a creation of British legislation. Nothing can be traced from history or records that it existed before, except that khudkasht raiyats had substantial interest in their land.

Q. 24. Nothing can be traced from previous history or records that the cultivating raiyats ever had been the proprietors of the soil in the sense we understand it now and the rent paid by them was something like a tax to the sovereign power. The king was always the proprietor of the soil. In Muhammadan times, the Emperors granted jaigirs and zamindari rights to reward officers and other persons for meritorious services done to the State.

Q. 25. We are of opinion that occupancy right should be limited only to one grade of tenants, i.e., raiyats only, as was provided in the Tenancy Act of 1885 and it should not be extended to under-raiyats. It should not be confined to actual cultivators of the soil only but also to non-agriculturists holding homestead lands and lands for commercial, manufacturing and horticultural purposes.

Q. 26. Our view, as enumerated above, if accepted, will give sufficient protection to raiyats partly cultivating their lands themselves and

partly subletting their lands to under-raiyats and also to raiyats who have wholly sublet their lands to under-raiyats.

Q. 27. It does not appear that the intention of the Permanent Settlement was to give protection to the agriculturist tenants only. We are in favour of extending the right of occupancy to non-agriculturist tenants holding lands as homesteads and for horticultural, industrial and manufacturing purposes.

Q. 28. We are of opinion that statutory rights given to protect the interest of cultivating raiyats should persist in the land, even after it has been used for non-agricultural purposes such as homesteads or industrial and manufacturing purposes. The rent should be on the basis of the rent of cultivating raiyats and there should be no other tax for the land itself.

Q. 29. Number is on the increase.

Q. 30. The reasons given in the questionnaire are true. Over and above those we may enumerate the following reasons:—

(1) Owing to gradual subdivisions of original holdings by successive heirs of original tenants, their heirs do not get land sufficient to maintain their families. For purchase of cattle and many other domestic troubles and necessities, which hit hard upon those who have but a small quantity of land and consequently no surplus money in hand, these people find no other alternative to raise money but to sell their lands to neighbouring well-to-do cultivators and then cultivate the land in barga under them. In this way some well-to-do cultivators and creditor raiyats are every year purchasing more and more lands of the indigent cultivators and becoming big farmers—while the poor cultivators are being turned into bargadars. It is a curious fact in this district that in Government khas mahals and temporary settled estates many cultivators at money rent prefer to be bargadars.

(2) Spread of education amongst the agriculturist class is another cause. Those who get some sort of education consider themselves a superior class in comparison with their illiterate neighbours and do not like to take to cultivation as their forefathers did. They let out their lands in barga to those illiterate cultivators who are in need of lands.

(3) Demand for barga land is gradually increasing in some quarters, specially in the temporary settled areas; and the demand for barga land is growing so great that in some areas bargadars pay some salami over and above half of the paddy and the entire straw on the land.

Q. 31. Some raiyats and under-raiyats, who have not sufficient lands at *nagda* rent for their occupation and maintenance, cultivate other lands in barga. The number of such raiyats and under-raiyats is considerable.

Q. 32. We do not think that occupancy right should be extended to bargadars. The economic position of people cannot be improved merely by legislation. Landless cultivating class and those raiyats who hold insufficient lands of their own will be hard hit if occupancy right be extended to bargadars. In that case they will be deprived of the little advantage they now enjoy. Those who have surplus land, which are now being let out to bargadars, will get their khas lands cultivated by the very same persons on pay system as servants. It will be then shown in Government statistics that the number of bargadars has decreased but really those men who used to cultivate land on barga system would be turned into these temporary servants getting smaller remuneration than they got as bargadars. So long as there is paucity of land for people, barga system of cultivation is of course a necessary evil. The prevention of its extension by provisions of legislation will have its counter action in another way.

Q. 33. Bengal is a pre-eminently agricultural province All cultivating classes want land for their maintenance. The bhadralok classes and landholders also want paddy land for family consumption. In fact excepting a very small number of families, bhadralok classes and landlords own paddy lands for their family consumption, however high their position in other spheres of life.

Q. 34. Practically this is the established custom throughout the country. If the extension of the barga system be tried to be checked, it can be done but that will bring in more miseries upon the landless cultivating classes. Nor their position can be improved by making non-alienation of agricultural lands to non-agriculturists or by putting a restriction upon raiyats not to acquire more than a certain quantity of land as is being attempted by a bill in the Bengal Legislative Assembly. Rich farmers are growing up in all cultivating villages who are acquiring all the lands of the poorer cultivators by khas kabala or purchase in execution of decrees on loan in courts. When the poorer people are required to sell small portions of their lands under necessity they do not get intending purchasers from outside. They will have to sell their lands to those village farmers only, at any price they offer; and these village farmers in order to avoid the restrictions put by the Legislature as to the quantity of land, will only make their sons and nephews separate from them after erecting separate houses for them and purchase the lands in their names for whom they themselves were really interested to acquire the lands. In our opinion no artificial measures should be taken to decrease the number of the bargadars. There are vast tracts of jungli lands in the Sunderbans in this district which fetched considerable revenue to the Government and if the Government really intend to find some avenue for the landless class, these lands may be settled for cultivation and then in natural

course the number of bargadars will decrease within some time. If protection be given to bargadars by legislation, landlords and other people holding khas lands will certainly cultivate their lands by servants and a large number of bargadars will be thrown out of employment.

Q. 35. From time immemorial half the produce of the land is being paid to the owner of the land and the other half appropriated by the bargadars. This has been the settled custom. In those areas where population is increasing, demands for land are also increasing there. In certain quarters in this district there is much competition for available barga lands and they induce the owners of land to make the *barga* settlement after paying Rs. 2 or 3 as *nazar* in cash for each bigha of land. We do not think this can be checked by legislation as corruption amongst Government servants could not be wholly stopped although there is the stringent provision of law against such corruption. It is a question of demand and supply. Where demand is greater the share of the produce for the owners of lands will be higher, on the other hand where the demand is less, and available land for letting out is large, landowners must compete amongst themselves for getting labourers at a considerably smaller share of the produce for their share. We are not in favour of fixing a maximum share of produce to be given by bargadars to the owners of lands.

Q. 36. The wages of agricultural labourers vary with seasons in different localities, thickly or thinly populated. At the plantation season, say from asharh to first week of bhadra and in the reaping season in pous, demand for labourers increase and in other months of the year there is little demand and some times no demand at all, so to say.

The wages vary from 3 annas to 6½ annas excluding food. In most cases bargadars' remuneration is more charming than that of the ordinary day labourer. Under-raiyats' position is much better, some times equal to that of the agricultural raiyats.

Q. 37. The power of unrestricted alienation given to raiyats by the Act of 1929 has led to some extent to the passing of raiyati holdings to non-agriculturists. Further facility given by Act of 1938 has increased this tendency to a great extent. The present tendency of the political parties in the Legislative Councils seems to be, over-anxiety for effecting the welfare of the cultivating classes and this over-zeal led them to pass legislations too hastily and without proper enquiry and materials. If protection were needed for preservation of raiyati holdings in their own hands it was better served by the provisions of Act VIII of 1885 when raiyati lands were non-transferable by private sale or money sale in court.

In spite of the provisions, private sales by raiyats fetched much higher value, than that fetched nowadays when there is absolutely no restriction for sale or purchase. Statistics, if taken from Registration Offices as to the value of lands, will show that the price of lands before 1929 was much higher than the price fetched nowadays. So it cannot be argued that under the law of non-transferability the tenants could not get proper price for their lands sold. Theoretically it is sound that private sales under the law of non-transferability brings lower price but to all practical purposes it is seen that it makes no difference in price. We think the provisions of Acts of 1929 and 1938 will do more harm to the cultivators than good. We are in favour of amending the Act again and making the raiyati holding non-transferable. It is practically no boon once given and subsequently withdrawn but restoration of a substantial right once given but subsequently wrongly withdrawn. Restriction on transfer ot agricultural lands to non-agriculturists is an impractical thing. It will bring down the price of lands abnormally low bringing untold miseries to the sellers. The intending sellers will get only a very few farmers of the village, probable candidates for purchase of their land who will combine amongst themselves to dictate any low price they choose. Restriction on quantity of land to be held by farmers can easily be avoided by such devices as has been suggested in our reply to question 33 and other like devices.

Q. 38. Our knowledge is that one man and one plough can cultivate 15 standard bighas to the utmost; in some areas according to circumstances much less.

Q. 39. It is exactly so.

Q. 40. Consolidation of holdings is desirable but we do not think it practicable without bringing in a revolutionary change.

Q. 41. Local knowledge of state of things will prompt us to reply that it is not practical. The different plots of land included in a holding, in many cases, lie here and there. The adjoining plots belong to different persons of different localities. Right of pre-emption may in some cases help consolidation to a certain extent.

Q. 42. Accumulation of large areas in one particular hand is undesirable. But prevention of it by legislation will discredit the dictum of survival of the fittest and wi'l bring in many necessary evils. There are many agricultural villages where there are only a few probable purchasers. Restriction of purchases to them will bring down the prices of lands causing considerable mischief to the sellers.

Q. 43. Coparcenary is no doubt detrimental to good cultivation but this cannot be remedied without changing the laws of inheritance which should not be done.

Q. 44. The provision for appointment of common managers under the Bengal Tenancy Act is useful for the purpose. The law may be made more liberal but practical experience shows that management of estates and tenures by common managers acting under the District Judge is most unsatisfactory. Practically no body is responsible for the management.

Q. 45. We think legislative compulsion on the whole is undesirable though in some cases it may be useful.

Q. 46. It seems to us from the tenor of the Permanent Settlement and subsequent Regulations that one of the means contemplated for the landlords to increase their profits in order to cope with the exorbitant revenue assessed upon the estates was the increase of the rate of rent of the tenants.

Q. 47. As far as we can gather facts from history of the Permanent Settlement, it seems to us that the framers of the Permanent Settlement did not contemplate permanency or fixity of rents of tenants coming into existence after the Permanent Settlement. Before the Permanent Settlement there was a class of tenants who had hereditary right in the land occupied by them. As we observed beforehand, the terms of the Permanent Settlement did not define or touch the rights and liabilities of the tenants nor was there any necessity for it. They were left where they were. The revenue assessed was so high that the zamindars and taluqdars could by no means cope with the situation unless they might increase their revenue immediately. Later Regulations empowered the zamindars clearly to demand any rent they choose from their tenants and to eject the latter in case they failed to comply. Income from reclamation of waste lands and water-logged lands necessarily required long time and as a matter of fact very large tracts of waste lands have been reclaimed within the last 80 years or so.

The framers of the Permanent Settlement must have thought of increment of rent of tenants as an immediate means in order to make zamindars and taluqdars able to cope with the difficult situation.

Q. 48. (*a*), (*b*) and (*c*) By the terms of the Permanent Settlement or subsequent Regulations or Acts or declarations of the authorities who were concerned with the Permanent Settlement, it does nowhere appear that the intention of the framers of the Permanent Settlement was that the rents of the tenants should remain fixed in perpetuity, on the contrary it shows that the intention was the reverse.

(*d*) By those provisions of the Bengal Tenancy it may be argued that the rent of the class of tenants, referred to therein, were meant to remain fixed in perpetuity but there is no authority to justify this view.

(*e*) This argument seems to have no great force in the face of our answers given above. The framers of the Permanent Settlement showed the zamindars their future source of income in the rents they might realise from tenants.

Q. 49. There is nothing to ascertain what the prevailing rate of rent was at the time of the Permanent Settlement at such a distant date, nor can it be ascertained which of the present tenants are the successors of the tenants existing at the time of the Permanent Settlement; consequently there is no case for reducing the rents of those tenants. It is common knowledge that the rent of tenants under old zamindaris is generally much lower than the rent of tenants in land reclaimed in recent times. We do not know what are the grievances of the tenants as regards their amount of rent of old tenancies. Probably there can be none. In old times when the price of paddy was very low, very small rate of rent used to be assessed on land. But it is our knowledge that some parts of districts of Jessore, Nadia and 24-Parganas, where formerly paddy grew well, have now become barren, which would be the case for all paddy lands in course of time, and the former rate of rent cannot be paid or realised at present. A large number of holdings are being sold away in rent sales and can not be re-settled. On the other hand there are old tenancies in old zamindaris bearing only a ridiculous rent. There was no system of creation of kabuliyats and pattas for creation of raiyats' holdings even some fifty years before. It was done orally. Loans were advanced to tenants but there were no documents for them. Rent roll of old tenancies shows the rent of tenants at certain amount for certain number of bighas. Now it transpires that much bigger quantities of lands are included in the holdings. Alteration of rent under section 52 of the Bengal Tenancy Act is a very difficult proceeding in such cases. The result is that this class of tenants holding old tenancies are holding 3/4/5 bighas of land at a rupee. This will be corroborated from settlement parchas and allotment papers of estates, created by Estates Partition Act, of many estates. In such cases, provision should be made for assessment of rent per bigha to protect the landlords and in those areas where the productive powers of lands are deteriorating, provisions should be made for reduction of rent to protect the tenants. Bengal is as big as a big European country. Circumstances vary differently as regards lands of the same thana. If a thanawari fair rent be calculated by Civil Courts at intervals, we think many intricate questions may be solved thereby and a good basis of fair rent may be arrived at.

Q. 50. As we are of opinion that it was not the intention of the Permanent Settlement Regulation that the rent of raiyats should remain unalterable, there was no mistake on the part of the Government to provide in all tenancy legislations for enhancement of rent on the

ground of rise of prices of staple food crops. The absence of the provision would have been most inequitable and hard to the landlords. As we have pointed out before, with the rise of price of staple food crops the standard of living rises in society and if the landlords do not get any benefit of it but only the attending evil of heavier cost of living arising out of it, they cannot cope with the situation.

Q. 51. We find no trace of any pargana rate in practical field although we get the mention of the term in legislations. It was not the intention of the framers of the Permanent Settlement that the rate of rent of the subsequently reclaimed lands would be restricted. The intention seems to be reverse as can be studied from the provisions of the Regulation 1 of 1793 itself and subsequent Regulations.

Q. 52. We think a fair portion, say 1/5th of the produce of the land, may be considered the fair and equitable rent for land. In that case poorer lands will pay less and richer lands will pay more rent.

Q. 53. We think that no fixed principle is followed in assessment of rent. But it is a fact that tenants generally do not agree to pay higher rent than what is prevalent in the neighbouring areas although they may agree to pay higher salami. At the time of first settlement of lands of a mauza the rate of rent is in almost all the cases the same. Subsequent increment of rent of particular holdings or re-settlement of others after making them khas to fetch higher rents, make difference in rates of rent of tenants within the same village. Tenants of course agree to pay higher rent for lands of better quality that those of inferior quality.

Q. 54. We have no such experience that the poorer tenants pay higher rate of rent. Our answer to the previous question will also apply to the present question.

Q. 55. We think a uniform basis may be adopted throughout the province if the basis be a certain portion of the produce as rent. A fresh record-of-rights should then be prepared.

Q. 56. We should propose 1/5th of the produce of land or its equivalent in cash. But it will reduce the Government revenue in some cases where the quality of the lands have greatly deteriorated.

Q. 57. We do not think that the rent of raiyats should be fixed in perpetuity. That will be against the interest of tenants in some cases and in others against the interest of the landlords.

Q. 58. We are against the imposition of income-tax in place of rent. If incomes below a certain figure were exempted, many holdings will escape payment. The troubles will be various. In practical field the income of tenants below the figure will be assessed, assuming that

they have income above the figure, as is actually being done nowadays in cases of other classes of assessment and many tenants who have their income above the figure will split up their families to avoid taxation.

Q. 59. The provision of section 7 of the Bengal Tenancy Act is faulty. In no case whatever, evidence of customery rate can be proved, as there is none. So the provision has no practical value. Increase of rent of tenureholders should be made on the basis of rent paid by similar tenureholders of the locality.

Discretion to the court has been given in the matter of increment of rent under section 30, Bengal Tenancy Act, after the rate of increment has been found out by comparison of the different periods. This discretion is being exercised very carelessly and differently by different courts in the same place and also differently in different cases by the same court, giving rise to many appeals and litigations therefor. Provision should be made for more definite rules.

In ascertaining prevailing rate of rent under section 31, Bengal Tenancy Act, the procedure to be followed is too costly. Both the tenants and landlords are affected by the heavy costs incurred therefor. Simpler mode of investigation should be found out.

Q. 60. Both landlords and tenants should get the benefit of the result of fluvial action, given by nature. It is not the result of any exertion made by tenants. They cannot demand the whole benefit arising out of it. Moreover, it will be a denial of the landlords' proprietary right if whole of the benefit be given to the tenants.

Q. 61. Enhancement of rent on account of rise in prices should not be denied to landlords. Such denial would curtail the economic equilibrium in society.

Q. 62. Such a restriction is neither fair nor practicable. It will be an intricate question of fact in each particular case too difficult to decide, and many tenants, otherwise not entitled to come under the restriction, will take up the plea and a disorder will be created between the tenants and the landlords.

Q. 63. Such reductions will result in great disorder and hardship in many cases. There are some estates and tenures whose revenue and rent is much higher than the revenue and rents of neighbouring estates and tenures. If the tenants' rent be brought to the same level, the former class of proprietors and tenureholders cannot cope with the situation. As a matter of fact tenures created in modern times bear much higher rent than those created in old days and bringing less margin of profit to the tenureholders. If the tenants' rent be reduced in those areas, the tenureholders' position would be too

precarious. In any case corresponding provision for enhancement by landlords should be made in consideration of the improvements made by them.

We cannot think how salami can be considered as rent.

Q. 64. This is a question of demand and supply. If legislative restrictions be put upon the rate of rent on contract, when there are greater and greater demands for land by cultivators nowadays, the inevitable result will be that landlords will be tempted to let out their lands in barga system or cultivate the same in khas, instead of letting them out to tenants at money rent. Our proposed scheme of rent, i.e., 1/5th of the produce, is a sufficient protection to the tenants.

Q. 65. Nothing seems unfair in permanently settled areas. As regards temporarily settled estates the rate of rent is often fixed arbitrarily.

Q. 67. We believe in every revision of revenue matters, may it be rent, cesses or income-tax, the guiding motive of the Revenue Officers, nowadays in anyhow to increase the revenue of the State.

Q. 68. The revenue of many temporarily settled estates in this district was abnormally increased during the last settlement. Statistics, if taken from the Collectorate, will verify the fact.

Q. 69. If it has been done, it has no doubt been a wrong done by the Government.

Q. 70. We think the rate varies with the question of greater or less demand of lands in different districts.

Q. 71. We have not heard of any remissions for permanently-settled estates however great may be the calamity. The remission made in temporary settled estates is also poor. We think the disposition of the Revenue Officers is responsible for it. Framing of more liberal rules and impressing upon the Revenue Officers of the duty to be observed by them may be useful.

Q. 72. The average yield of paddy in this district may be taken at 21 maunds per acre and the cost of cultivation at Rs. 12 per acre including the labour of the cultivators.

Q. 73. The productivity of the soil in this district is deteriorating to some extent as every soil must deteriorate by its continuous cultivation for a long period without being properly manured. In this district there is absolutely no custom of manuring agricultural land. Nothing practical has been done by the Government to improve the fertility of the soil or in supplying manures and seed grains to the cultivators.

Q. 74. We know of no practical application of the Acts in this district.

Q. 76. Government realise salami from tenants at the time of first settlement in khas mahals. Government spend practically very little for improvement of khas mahal lands.

Q. 77. In our opinion the general policy of the Government or the land system of Bengal is not so much responsible for the present uneconomic condition of the raiyats as over-population, want of fresh avenue of employment, depopulation in certain areas, deterioration in the fertility of land in certain areas and want of land in certain quarters. Had we found the economic condition of the landholding classes much better, we might have ascribed some fault to the land system of Bengal. As a matter of fact the position of the landholding classes, in most cases, is far worse. Khulna is a paddy producing district. There are scarcely any waste lands nowadays. Population is increasing every year and this ever increasing population has no other avenue than to cultivate the same land which was being cultivated so long by a comparatively much smaller number of cultivators. Reduction of their debts under the provisions of the Bengal Agricultural Debtors Act or reduction of their rent in certain areas may no doubt give some temporary relief to some cultivators but these cannot cure the disease altogether. They will certainly again incur fresh debts and fail to pay their rents and lose the lands they have. Unless a practical scheme of improving their income be adopted, patchwork of temporary relief will be of no avail. In Assam we understand vast tracts of land are still unreclaimed. Fresh colonies may be opened there and some other parts of this province for cultivators, who have practically no lands in their native villages. They do not know, however, if lands are available elsewhere. A large number of cultivators have colonised in Assam from the Mymensingh district. Considerable number of cultivators have colonised in the districts of Nadia and 24-Parganas from Barisal and Dacca and these people are now far better off. Fresh avenue of cultivation or industry must be found out. Otherwise they cannot be saved merely by some legislation in their favour, curtailing the rights of others.

Q. 80. The suggestions are all useful. We would add:

(1) Fresh colonisation scheme should be adopted.

(2) Government forest lands in the sea bordering districts should be let out for cultivation.

(3) Active propaganda to make them understand to live within their means.

(4) Excessive and ever increasing costs imposed for litigations ultimately payable by cultivators and increase of registration costs are other causes of the poverty of the raiyats.

Q. 81. Pressure of population undoubtedly is the principal cause of the poverty of the agriculturists in Bengal and their adopting higher

standard of life incommensurate with their poor income. We often find that there are a good many number of males in one family having land only for sufficient engagement of a single man. But as they have no other occupation whatsoever all of them work in that land only and thus they are becoming indolent for hard work. What percentage of population is surplus cannot be ascertained without a survey of the situation. Every member of a family requires the produce of a certain quantity of land for his maintenance, according to the condition of the soil in different localities. It is not a very difficult task to have a survey of the situation on this basis.

Q. 83. We do not think there are any efficient organisations at present for improvement of agricultural credit. It appears from official reports only that the co-operative societies are doing much good work towards this direction, but in actual field they may be considered negligible agencies.

Q. 84. The higher rate of interest has already been stopped. But for those who have not the minimum income required to live upon the real remedy lies in the finding out of ways and means to improve their income. So that they may not be ordinarily required to go to the mahajans. It is not practicable to ascertain what portion of their income goes to the mahajans as interest without a careful survey of the situation.

Q. 85. Co-operative credit societies though highly spoken of in official reports have done very little good to the agriculturists. A certain number of persons are required to join in the bond and contract a joint debt. Poor cultivators, who need money individually and cannot find out other persons to join with them in the bond, find no scope for getting any loan from the societies. Only some leading persons can get loan. The rate of interest also is not so low. The system of enforcement of payment of the debt within a year, is often met with a devise of change of documents for the debts incurred. We do not consider that any percent of the co-operative societies have been able to wipe out the debts of the agriculturists.

Q. 86. The Debt Settlement Boards have only began to function recently. It will no doubt do some good to big farmers who contracted debts. But generally they are doing more mischief than the contemplated good. Claim of rent has very wrongly been included within the term of debt. The ignorant mass has been over-encouraged to think that they can avoid all sorts of payment by taking resort to the law. Those who were hitherto paying their rent regularly have, in many cases, withheld them although paddy is growing as usual. Instalments are also being granted for rent decrees, which the tenants in most cases could have otherwise satisfied although with some difficulty by the sale of their produce. But they cannot save or keep in

deposit the price of their produce but spend them all in some other ways. The result will be that their debts will swell bringing in their ruin in the long run. Forced payments save both the payer and the payee.

As regards loan debts the law will not give them much relief. Where loan was felt to be unrealisable from debtors, the creditors themselves make easy terms in instalments. It cannot be gainsaid that it has both sides good and bad. But the adoption of an artificial way of wiping out the debts must have its serious repercussions. The sound remedy there was in the provisions of the Bengal Tenancy Act of 1885 when raiyati holdings were non-transferable. Under that provision of the law inconsiderate cultivators could not contract or get heavy loans, and mahajans were careful not to advance such amount of loans which could not be realised amicably or by attachment of moveables. By making the raiyati interest transferable, better facilities have been given for giving and taking loans and the tenants are being heavily encumbered. Now with the functioning of the Debt Settlement Boards, mahajans have stopped payment of further loans but loans must be had in times of necessity for all persons in society and the needy agriculturists are nowadays being compelled to sell away or lease away their lands whenever they are in need of money. Village credit system has been shaken to the very foundation. Making the raiyati right transferable and giving these inconsiderate and ignorant classes of people every facility to contract debts necessarily or unnecessarily, it is now useless to think of saving them by new legisaltion. The constitution of the Boards consisting of members has been a worse cause of grievances. Corruption is going on freely amongst the members of the Board in rural areas. It is a wonder that it does not attract the attention of the authorities. It is strange that the members of the Board sit as judges of their own debts and make a word.

Q. 87. It is a matter of experiment and the result cannot be anticipated.

Q. 89. The machinery at present is no doubt costly and cumbrous. Easier methods should be thought out and resorted to. Now that the Settlement records have been prepared and finally published almost throughout the province, similar provision may be made for landlords, who claim rent at the rate recorded in the Settlement papers or under registered contract, for realisation of their rent as provided in the Patni Regulations. This method may save the landlords and tenants from incurring heavy litigation costs and discourage irresponsible lawyers to induce the ignorant cultivators to drag on defenceless litigations ultimately to no useful purpose. The present procedure in the conduct of rent suits are harassing both to the landlords and to the tenants. As a matter of fact we see that a very large proportion of rent suits is decided *ex parte*.

Q. 90. In practical application, the proceedings under the Public Demands Recovery Act are harassing to some extent not so much on account of the provisions of law as to the actual conduct of the proceedings by officers and peons of the department. Our suggestion has been given in reply to question 89.

Q. 91. We are in favour of revising and codifying the revenue laws into a more up-to-date and simple form. We are of the same opinion as regards the latter part of the question.

Q. 92. As regards the Revenue Sale Law—provisions should be made for deposit of the sale money by the defaulter within 30 days from the date of sale. It is sometimes seen that estates are sold for such petty sums as annas 2, 3 or such amount as a result of miscalculation of arrears. Sometimes defaults are made through the negligence, intentional misconduct or intrigue of agents causing great loss to the proprietors. The Bengal Tenancy Amendment Act of 1938 has operated too harshly on the landlords. Abolition of landlords' transfer fee seems not only inequitable but illegal and *ultra vires* as well. Before the amending Act of 1929 tenants could not transfer their lands against the will of their landlords. Full proprietary rights of the landlords were preserved. By the amending Act of 1929, raiyati holdings were made transferable subject to the payment of landlords' transfer fee. Here also the proprietary rights of landlords were preserved. By the amending Act of 1938 the proprietary rights of landlords were totally ignored. This should be remedied.

Denial of right of pre-emption to the landlords, has not only been inequitable but disastrons, so to say. Commencing from time immemorial, for the first time on this occasion, the right of the landlords to choose their tenants has been denied. It has been a great source of trouble and harassment to the landlords. One landlord having grudge against the other will have easy facility to purchase the raiyati interests of the latter and enter into his estate or tenure creating troubles and litigations. The poorer landlords will be the worst sufferers. It is a custom to induce some tenants even making some concessions and rendering necessary help to them near the homestead of each landlord; not so much for rent but for their help in times of trouble and necessity. Their rival landlords will now purchase those rights and harass them by inducting undesirable and troublesome persons there simply to chastise them. It is difficult to ascertain what benefit the tenants could derive by the provision and what they were to lose if the landlords were permitted to get back their lands by paying the whole purchase money and the prescribed compensation. The landlords ought to have been given the second right of pre-emption. As regards the right of pre-emption given to the co-sharer tenants, the provision is practically useless. A co-sharer tenant, having grudge against his other co-sharers, generally sells his share to such persons who can

chastise his co-sharers. The provision made in favour of such co-sharers can easily be defeated by putting a much higher fictitious value in the conveyance and thereby disabling the co-sharer tenants to pay the value. The provision in the Act that the pre-emptor is required to deposit the value "mentioned in the notice" should be amended and courts will have power in such cases to ascertain the real value of the land at which it was actually sold. The whole Amending Act was enacted in a hurry and without accepting public opinion and criticism with the result that the provisions made therein were faulty and defective in many places. It is not practicable to enumerate them all here which will require a too lengthy space in our replies. After this enquiry by the Commission the whole Act should be reconsidered afresh.

Q. 93 (1) Abolition of landlords' transfer fees will deprive the landlords of their income from such transfers through courts from 1929, which before 1929 they realised amicably.

(2) The withdrawal of the right of pre-emption from the landlords will create serious troubles and litigations amongst the rival landlords.

(3) The right of pre-emption given to the co-sharer tenants, after the abolition of landlords' transfer fee, is futile and will create trouble and various litigations amongst raiyats.

(4) The usufructuary mortgagees in most cases, who are raiyats, will be ruined.

(5) The provision for unrestricted right of transfer by raiyats will result in their ruin.

(6) The provision for easy subdivision of land will result in creation of uneconomic holdings which is being tried to be checked.

(7) The abolition of the speedy method of realisation of rent by landlords under the provisions of the Public Demands Recovery Act will create troubles for the landlords.

The Cess Act should be amended releasing the landlords from the liability of collecting cesses from their tenants and pay the same to the Collectorate. In union boards and municipal areas landlords are not required to pay the cesses and taxes due by their tenants who pay them directly to the boards and municipalities. The tax collector does not lose his real property for inability to collect. By the Cess Act the zamindars do not get any commission for their collections but they are to pay the whole cesses due by their tenants in advance and in default of payment their estates are sold. There can be no justification whatever for this provision. By Regulation 1 of 1793 the zamindars were allowed to enjoy their properties for ever subject to the payment of revenue only. By the above provision of the Cess Act, the zamindars' right to retain their properties have considerably been curtailed. Occupancy right should be given to non-agriculturist holdings as well.

Reply by the Malda Landholders' Association.

Q. 1. The description is exhaustive, except that clause (*c*) of the quid pro quo of this question is not the same as used in Regulation I which is "to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats." There is a lot of difference between the meanings of the two expressions.

Permanent Settlement did not take away any existing right of the tenants.

Q. 2. Yes, because the landlords were declared to be proprietors of the soil and also the exclusive enjoyment of the fruits of their good management and industry was guaranteed.

Q. 3. The landlords have played a great part in the economic development of the country in various ways. They have improved agriculture, helped the tenants to extend cultivation and encouraged commerce and industries generally. The Permanent Settlement has created an active, strong and independent middle class which is the backbone of the nation in every civilised country. Such a class, so far as we know, is not to be found in any other part of India. Almost all the leaders of movements whether economic, social, educational, political, literary or scientific, have come from this class. They have established schools and colleges, dispensaries and carried the torch of civilisation to the door of the masses. They have not failed to perform the functions expected of them at the Permanent Settlement.

Q. 4. It seems correct to say that the Permanent Settlement converted the status of zamindars from collectors of revenue to actual proprietors of the soil. We will deal with this more elaborately in our reply to question 24.

Q. 5. It is true that the annulment of the Permanent Settlement would be a breach of a solemn pledge given by the East India Company to the zamindars. From time immemorial the State had been the actual proprietor of the soil in India till this right of proprietorship was transferred permanently to the zamindars by the Permanent Settlement. The tenants, not being proprietors of the soil, were never necessary parties. The very language of the Regulation leaves no room for doubt that the Permanent Settlement was a solemn pledge never to be annulled or modified. Instances may be cited of the use of such expressions as "actual proprietors of the soil", referring to the zamindars, in various articles of the Regulation, "jama to remain unalterable for ever", and "no demand will ever be made upon them (landlords) or their heirs or successors, by the present or any future

Government, for the augmentation of the public assessment'' etc.; *vide* Article VII of the Regulation. It is not true to say that the Permanent Settlement crippled the financial resources of the country. (*See* also reply to questions 3, 10, 11, 12 & 13.)

Q. 6. This expectation has been fulfilled.

The large increase in the area brought under cultivation since the Permanent Settlement has been partly due to the increase in population and partly to the initiative of the zamindars and the enterprise of the tenants. The proportion may be approximately estimated at 25 per cent. for the increase in population, 50 per cent. for the initiative of the zamindars, and 25 per cent. for the enterprise of the tenants.

Q. 7. (*i*) 60 per cent. may be ascribed to the industry and good management of the zamindars;

(*ii*) 25 per cent. to increase in cultivation and reclamation of waste lands by the efforts of the tenants; and

(*iii*) 15 per cent. to enhancement of rents.

Q. 8. Yes, they have fulfilled the expectation. In fact, there is no scope for bad faith and immoderation in view of the laws in force.

Q. 9. All the improvements that have been effected, have been made by the zamindars themselves without the help of Government or the tenants.

The zamindars have discharged all the duties imposed by the Permanent Settlement upon them.

The question of absenteeism does not arise.

Q. 10. The Permanent Settlement was in the interest of the country and for the greatest good of the greatest number and it has led to a revenue system which is to the benefit of the province. Certainly it has not resulted in the advantage of the landlords at the expense of the tenants.

Q. 11. The criticism is not justified, because 80 per cent. could never have been appropriated by the zamindars after defraying the costs of management, litigation costs, improvements, statutory charges, etc.

Q. 12. No, we do not advocate the abolition of the Permanent Settlement.

Q. 13. No, it does not involve any loss to the State. The statement showing a loss of 75 per cent. does not include the costs of management, litigation, improvements, statutory charges, permanent arrears of rents by the tenants, etc. If Permanent Settlement is

abolished, there will never be 80 per cent. margin as estimated. The methods advocated will not improve the revenue. Assuming the loss to be so, the abolition of the zamindari system or the cancellation of the Permanent Settlement will not recoup the loss as the cost of management and expropriation will be enormous. The imposition of an agricultural tax will be an utter violation of the Permanent Settlement.

Q. 11, 12 and 13. The charge against the Permanent Settlement that it has led to enhancement of raiyati rents and that it has created a system of overlordship over the cultivators which is harassing and oppressive is not at all sustainable. There is no evidence that the raiyati rent was fixed before the Permanent Settlement; on the contrary the tenants were much worse off and were oppressed before the Permanent Settlement. By the Permanent Settlement everything became systematized and the tenants were saved from the oppressions of the dark period preceding the Permanent Settlement. The rents were enhanced it is true, but that by subsequent codified laws administered by the courts. Moreover, by the Permanent Settlement 257 lakhs out of the total ascertained assets of 285 lakhs, i.e., 90·17 per cent. of the ascertained assets (*vide* question 46 of this questionnaire) was assessed as Government revenue. This excessive assessment must have been made keeping in view the future enhancement of rent besides extension of cultivation. Any grievance by the tenants on this score is untenable. It should also be noted that the tenants under the temporarily settled estates and the khas mahal pay a much higher rate of rent than under the permanently settled estates. (*Vide* Statement No. IX of the Statistics sent with Commission's Circular No. 3, dated the 19th December 1938.) Though the zamindars cannot be said to be ideal landlords in all cases, yet there is no denying the fact that the tenantry have been on the whole dealt with sympathetically, particularly with regard to the concessions shown by the landlords about the realisation of rent. There have been few suits and large amounts were allowed to be barred to allow the tenantry to tide over bad harvests. It cannot be denied, however, that the landlords were at one time considered the natural leaders. Their tenants looked upon them as their natural guardians and turned to them for help in times of distress. Over the greater portion of the country the tenants and the landlords lived in amity and mutual friendliness. Then a time came when many of the landlords left their estates and lived a life of luxury in big cities. With a few exceptions the big landlords have of late kept themselves aloof from the progressive movements of the country. The evils of absenteeism amongst the landlords and the preaching of individual rights amongst the tenants have estranged the feelings between landlords and tenants. It

may be noted here that all the zamindars of this district (Malda) are happily free from this defect, i.e., absenteeism, and they live within their estates and deal with their tenants themselves.

In spite of the defects in the zamindars mentioned above, they have now risen to the occasion and parted willingly with some of their rights and are trying to remedy their own defects. No good can always be expected from compulsory legislation. It is the good feeling between the landlord and the tenant from which any lasting benefit can be effected. In these circumstances, the question of the abolition of the zamindari system or the cancellation of the Permanent Settlement and substitution of the system of temporary settlement in its place or the imposition of a tax on agricultural income should not arise. Moreover, in view of the administration at present obtaining in Bengal, the discordant elements and the communal tension amongst the persons in power, it is impossible for the present Government to look at things dispassionately. The time is not yet ripe for initiating this great change and we ought to await the time when the people of the country will be more ready than now to make some sacrifices for the good of the country than to blindly stick to their so-called rights and privileges. Any attempt at the present moment to abolish the zamindari system or the cancellation of the Permanent Settlement or substitution of the temporary settlement or the imposition of a tax on agricultural income would be ruinous to the country and particularly to the cultivators of the soil. As to the allegation that the Permanent Settlement has created zamindars oppressive to the tenants, it may be said that after the Permanent Settlement it was rather the landlords who were at a disadvantage. The tenants became so independent that it was considered necessary by Government to enact Regulation VII of 1799 giving the landlords power to distrain the crops, etc., of the raiyats and to arrest their persons for arrears of rent without reference to any court. Regulation V of 1812 abolished the power of arrest, but the right of distraint remained. On this point, Sir William Hunter in his introduction to the Bengal MSS. Records writes as follows:—

"The laws of 1799 and 1812 are so painfully associated in subsequent history with harshness to the cultivators, that it is necessary to emphasise the forgotten fact that they were at the time considered indispensable for the preservation of the landlords. I, therefore, quote a remarkable statement by a Bengal Administrator, whose authority on such questions is beyond dispute. 'It may not be generally known,' wrote the late Mr. Buckland, 'that the Regulation of 1799 was enacted in order to save the perpetual settlement, the existence of which was then imperilled by the excessive independence of raiyats. For although it is now the custom to say that the rights

of the raiyats were not properly protected in the perpetual settlement, it turned out at the time that they could take such good care of their rights that the zamindars could not collect their rents from them until the Government came to the rescue of the zamindar and made the raiyats liable to arrest for default of payment of rent."

The same is the position now; it is the landlords who are being ruined by the tenants by non-payment of rent and not vice versa.

Another fallacy of the argument that the Permanent Settlement involves a loss to the State of 75 per cent. of the raiyati assets estimated at Rs. 12 crores is this. Out of the total rent roll at the time of the Permanent Settlement of Rs. 285 lakhs, Rs. 257 lakhs, i.e., 90·17 per cent. of the assets was fixed as Government revenue. This percentage is too heavy and unnatural. No landlord could have made any profit after payment of this revenue. This revenue was assessed with the sole intention that the landlords would in the long run be compensated by extension of cultivation and enhancement of rents of the tenants. Assuming the aforesaid figure of present raiyati assets—Rs. 12 crores to be correct, it has taken nearly a century and a half to arrive at this figure by the enterprise of the landlords who had incurred heavy losses during the earlier years following the Permanent Settlement, and when they had begun to enjoy the fruits of their enterprise and investments, a proposal is thrown like a bombshell to do away with the Permanent Settlement and to deprive them of their legitimate compensation.

Subinfeudation as it exists should be upheld in order to maintain the economic equilibrium of the province, but further subinfeudation should be discouraged.

Q. 14. If the zamindari system is abolished or Permanent Settlement be cancelled, compensation should certainly have to be given to the zamindars. The compensation should be at the rate of 40 times the net profit. It is not possible to give an estimate.

Q. 15. If compensation be paid in bonds, they should be redeemable at the option of the landlord after 5 years and the rate of interest should be 6 per cent. per annum.

Q. 16. The social structure will be the same as in khas mahals.

Q. 17. Certainly, the interests of all tenureholders should also be purchased. Otherwise, the purchase of zamindari would be without any value whatsoever.

Q. 18. It is not possible to answer without proper data.

Q. 19. The raiyats are under a great disadvantage in the khas mahal and temporarily settled estates as they have got to pay their rents regularly by the end of the financial year. Raiyats do not prefer khas mahal.

Q. 20. Subinfeudation has not been the result of the Permanent Settlement but of the Tenancy laws. The position of the raiyats has much improved socially and economically by the creation of the Permanent Settlement. They have secured rights and privileges which they could not have dreamt of before the Permanent Settlement. In truth, none of the rights and privileges which the tenants have been enjoying since the creation of the Permanent Settlement had been ever enjoyed by them in India from the earliest times, either under Hindu or Muslim rule. The occupancy right itself is the creation of British legislation. In this connection please see our reply to question 24.

Q. 21. It will totally upset the economic and social structure of the province.

Q. 22. If the zamindaris and tenures are purchased by the State, homestead and khas lands of the zamindars and the tenure-holders should be left to them on payment of a fixed and non-enhancible rent with all the rights and privileges which they enjoyed before. These lands have been recorded in the Settlement. Khas lands mean land cultivated in khas by hired labour or by barga, adhi or furan.

Q. 23. The occupancy right of raiyats is a creation of British legislation.

Q. 24. It is a myth to say that the cultivating raiyats have always been the actual proprietors of the soil and that the rents paid by them to the State were a form of tax for affording protection to their person and property and for carrying on the administrative machinery. Those who assert this theory either have no knowledge of Indian History or consciously pervert the facts with some ulterior motive. In India from the earliest times soil belonged to the ruler and the cultivator was merely his tenant, till in the case of Bengal, Bihar and Orissa, the right in the soil was for ever transferred to the zamindars by the Permanent Settlement enacted by the British ruler. Abbe Dubois, in his enlightening book entitled "Hindu Manners", expressed the opinion that in Malabar, the home of the Kayars (Nairs), Coorgs and Tulus, whom he regarded as the three aboriginal tribes of the western coast, is to be found the clearest example of absolute private property in land, closely resembling the English freehold. Dubois says that Malabar "is the only province in India where proprietary right has been preserved intact until the present

day. Everywhere else the soil belongs to the ruler and the cultivator is merely his tenant". The proposition enunciated by Dubois that "everywhere else the soil belongs to the ruler" has been generally accepted and now the doctrine is current in the Native States.

The commentator on the renowned treatise Arthasastra (Book II, Chapter 24) had no doubt on the subject. He declares that "those who are well versed in the scriptures admit that the King is the owner of both land and water and that the people can exercise their right of ownership over all other things excepting these two." The author of the treatise, as a whole, seems to accept that view. The rules in Chapter I of Book II instruct the King that lands prepared for cultivation shall be given to tax payers (karada) only for life (ekapurushikani); and that "lands may be confiscated from those who do not cultivate them, and given to others". The author evidently held that land of all kinds was at the disposal of the Government. Most native Indian Governments, including those of the Muhammadan dynasties, have taken in the shape of land revenue and cesses a large proportion of the produce. In those circumstances, no room was left for economic rent. The land revenue, or State share of the produce, may be regarded as rent rather than as taxation on the assumption that the ultimate property in land is vested in the State. The normal share of the produce admitted to be claimable by the Government was one-fourth. But Emperor Akbar took one-third, and the Sultans of Kashmir claimed half.

From the above facts it would be clear that the idea of the cultivators' right of property in the soil is quite foreign to India. Far from having any such right, the cultivators had not even the hereditary right to till the land as would appear from the quotation made from the Arthasastra given above. So, many of the alleged grievances of the raiyats are imaginary. Their position has much improved during the British administration and we think they are better placed than even the tenantry of Britain.

The undisputed proprietary right of the State in the soil was irrevocably transferred to the zamindars, independent talukdars and other actual proprietors of land subject to payment of revenue to Government.

Q. 25. We are for confining the right of occupancy to the raiyat as given by the Act of 1885.

Q. 26. By the Tenancy Law of 1885.

Q. 27. Yes.

Q. 28. No. In case of such conversion the zamindar or the khas mahal as the case may be, should be entitled to make the land khas.

Q. 29. The number of bargadars is on the increase. The causes are—

(*i*) as in question 30;

(*ii*) want of other occupations and facilities, viz., trade, commerce, rearing of silk and other sources of income.

Q. 30. Not exhaustive; *vide* answer to question 29.

Q. 31. 15 bighas. Majority of bargadars were not occupancy raiyats.

Q. 32. Right of occupancy and other rights should not be extended to bargadars. Question of protection does not arise. They are merely labourers and they are amply remunerated, as they generally get half of the produce.

Q. 33. The barga system is economically sound. Its abolition would seriously affect the economic equilibrium of the country. There is no need for its prevention. Its prevention will create unemployment.

Q. 34. A large number of people would be thrown out of employment and there will be a serious dislocation of economic equilibrium.

Q. 35. Generally fair proportion is half of the produce, but it may vary according to circumstances. Therefore, without fixing the proportion by law it is better to leave the parties to fix the proportion amongst themselves according to circumstances.

Q. 36. The wages of agricultural labourers are 3 to 4 annas per day in this district (Malda). The bargadars and the under-raiyats seem to be better off than the labourers.

Q. 37. The unrestricted right of transfer given by the Acts of 1929 and 1938 will certainly be prejudicial to the interest of the cultivating raiyats as a whole. The only remedy, it seems, is to revert to the good old principle that the raiyats' sale should be subject to the consent of the landlord.

Q. 38. The minimum size of an economic holding must vary according to the quality of the land and other circumstances obtaining in different parts of the country. But so far as this district is concerned (Malda), 20 bighas of good land seems to be the minimum size.

Q. 39. The size of the raiyati holding is certainly uneconomic. The reasons given in this question tending to further subdivisions and fragmentation of holdings are true.

Q. 40. Reasonable consolidation of holdings is desirable.

Q. 41. Facilities may be given for reasonable consolidation of holdings on an economic basis.

Q. 42. Accumulation of large areas is undesirable. The limit should be 1,000 bighas. A raiyati holding should not be transferable, it should be left to the discretion of the landlord.

Q. 43. Yes. This evil cannot be substantially minimized without interfering with the laws of inheritance, but can be partly minimized by doing away with the unrestricted right of transfer given to the raiyats and reverting to the principle of transfer and subdivision subject to the consent of the landlord.

Q. 44. In view of the laws of inheritance, we do not think anything can be done.

Q. 45. No.

Q. 46. It was certainly contemplated that one of the means adopted by the landlords for increasing their income or profits would be by enhancing the rates of rent payable at the time of the Permanent Settlement.

Q. 47. The framers of the Permanent Settlement did never contemplate permanency or fixity of the rates of rent either in the case of tenants then existing or in the case of tenants who might subsequently be introduced on the land and the series of Acts enacted subsequent to the Permanent Settlement would prove that.

Q. 48. The question does not arise.

Q. 49. Supposing it to be so, in bare justice there is no case for reducing the rents of such tenants in future, or retrospectively to the level prevailing at the time of the Permanent Settlement or to any level, as the economic and local condition and taxation, direct or indirect, prevailing at the time of the Permanent Settlement were not the same as they are now.

There is no material available for determining what those rates were and for distinguishing those tenants who are successors-in-interest of tenants existing at the Permanent Settlement and those who have taken settlement subsequently. Assuming that old papers of the zamindars are available, it would be impossible to find out a connecting link up to the present.

Q. 50. No, it was not a mistake, as it took into consideration only the economic, material and local conditions prevailing at that time.

Q. 51. It could never be the intention of the framers of the Permanent Settlement that all future settlements of waste lands should be made at the rates prevailing in 1793.

Q. 52. The principle of determining fair and equitable rents should be a definite share of the produce (vide item 3 of the question). The disadvantage mentioned of this system, that poorer land pays higher rent in proportion, may be avoided by dividing the land into 3 or 4 classes according to quality and then fixing different shares for different classes. The outstanding merit of this system seems to be that the tenants will thereby more easily withstand the effects of a bad harvest.

Q. 53. The present rents seem to be paid mainly on consideration of the productivity and quality; then on custom and to a small degree on competition. Majority of the rents cannot be described as lump rents, though some solitary cases might be of lump rents.

It cannot be said that the rates differ greatly for lands of similar value in almost every village and estate, though such instances are not wanting.

Q. 54. No. Fair and equitable principles in each case as determined by the courts.

Q. 55. We would recommend the payment of a definite share of the produce as rent, but the share, as has been said in reply to question 52 above, cannot be uniform throughout all parts of the province. It must vary according to circumstances, particularly the variation in the quality of the land. A new record-of-rights may not be necessary, but a classification of the lands will be imperative.

Q. 56. We would recommend 33 per cent. of the produce subject to slight variations for the inferior lands. The normal share of the produce admitted to be claimable by the Government during the Hindu reign was one-fourth. Emperor Akbar took one-third and the Sultans of Kashmir claimed one-half. The Government share, it is true, was always limited theoretically, but in practice the State usually took all it could extort.

Q. 57. Rent should never be fixed in perpetuity, but it should be alterable according to the money value of the produce. No organisation should be set up for re-examining the rates of rent generally. In all cases this should be done at the instance of the parties by the Civil Courts instead of by Revenue Officers.

Q. 58. No.

Q. 59. The provisions of the Bengal Tenancy Act of 1885 are not defective.

Q. 60. No. It is not fair that a particular tenant should get all the benefit of the improvement and the landlord nothing. If the landlord has done nothing to bring about the fluvial action, the tenant has also done nothing. The landlords should get enhancements for fluvial action as they are proprietors of the soil.

Q. 61. No.

Q. 62. Yes.

Q. 63. The meaning is not clear.

Q. 64. No, the sanctity of contract should be maintained. There should be no provision in law for limiting rents for new settlements.

Q. 65. It is defective in many respects. Aeroplane survey is not suitable. The procedure should be cheaper and the machinery should be more efficient. Description of land should be more clear. North boundary should be given. There should not be provision for deduction of 10 per cent.

Q. 66. No.

Q. 67. Yes.

Q. 68. We do not know of any particular estate, but it is generally so done.

Q. 69. Yes.

Q. 70. It is not possible to answer.

Q. 71. Because, the Government does not follow the rule.

Q. 72. Jute per acre 12 maunds. Paddy per acre 9 maunds. Sugarcane per acre 450 maunds. Cost of cultivation per acre: Jute —Rs. 10; Paddy—Rs. 6; Sugarcane—Rs. 6.

Q. 73. It seems that the productivity of the soil in Bengal is generally on the decrease. Reasons roughly are want of education, sluggishness of the tenants which has made them unfit to take recourse to improved methods of cultivation, the silting up of the rivers, poverty, etc. Practically the Government has taken no steps. The steps that have been taken are wholly inadequate and insufficient to cope with the situation.

Q. 74. No initiative has been taken by the Government.

Q. 77. The land system of Bengal is not certainly responsible. No modification is necessary in the land system. In this connection please see replies to questions 81 and 82.

Q. 78. It is not possible for want of sufficient data.

Q. 79. Yes. Under the present system of law it is not necessary.

Q. 80. The income of the cultivating raiyats may be increased by giving them supplementary occupation and by establishing cottage industries. They should also be encouraged to spin their own cloth in the slack season.

Q. 81 & 82. Pressure of population on the land is certainly a reason of the poverty of the agriculturists. Increase of population in India is perhaps lower than that in other countries of the world, but the condition of the agriculturists in those countries is infinitely better than here. So the cause of poverty is not the population alone. The main cause in our opinion is the gradual extinction of all indigenous industries and manufactures during the last 100 years or more. One glaring instance is the manufacture of cloth. The men engaged in those industries have to fall back upon the land.

Some people, of course, may be diverted to large industries by starting Government-aided factories, but that is not the only means. Government has been strangely callous to the condition of the people. It should take up the matter in right earnest and educate the people, help the cultivators to increase the fertility of the soil, resuscitate the dying rivers of Bengal, start large factories as well as small cottage industries. To sum up, Government should without any further waste of time take to the methods of improvement as is done in all civilized countries and find out sufficient funds to carry on this work by drastic retrenchment in the emoluments of the Ministers, M. L. A.'s, M. L. C.'s and higher officials and by other approved methods. It is an irony of fate that though India is the poorest country, she pays much higher salaries than is done in any other country in the world.

Q. 83. By improving the economic and material condition of the province. There is no organisation.

Q. 84. No, it is not true. By the Bengal Agricultural Debtors Act payment to the mahajans has been totally stopped.

Q. 85. They have not done to solve this problem. The co-operative societies have not benefited.

Q. 86. The Debt Settlement Boards have completely failed to deal with the problem of agricultural debts. The defects are—(*a*) the Boards are inefficient and unable to interpret the law; (*b*) it has given scope for irregularity, harassment and what not; (*c*) it is understood that the Bengal Agricultural Debtors Act has been enacted to evade payment; (*d*) the costs are enormous; (*e*) the provisions and rules are inadequate; (*f*) it has tended to collapse the economic structure of the province. It can be improved by abolishing the Boards

and making provisions for instalment in Civil Court; (*g*) it has practically made it impossible for the mahajans to realise their dues and for the landlords to realise their rents from the tenants. Of course, the Act was conceived with the intention of helping the agriculturists, but it is so one-sided and is carried to such extremes, that the effect has been disastrous, not only to the moneylenders and the landlords but also to the persons whom it was intended to benefit. By the passing of this Act an impression has been firmly rooted in the minds of the agriculturists that they have been released from all liabilities of payments of debts as well as the rents due to their landlords. Unreasonably long terms of instalments, sometimes for 20 years or more, are allowed by the Boards on ordinary debts, rents and even decreed rents. These instalments are seldom paid and on failure of one instalment the whole amount does not become due (as is the case under the ordinary law), but for each default of instalment the creditor or the landlord will have to pray for execution in a court of law within 30 days of the default and this fun of fruitless running after the debtor will continue for a good number of years. Then again, if a debtor files a petition for settlement of his debts and after the service of notices on the creditor or the landlord, the creditor or the landlord does not appear, the case will be decided *ex parte* in favour of the debtor. But if a creditor or a landlord files a petition against a debtor and if the debtor does not appear after service of notices, the rule is that the case of the creditor or the landlord will be dismissed and he will again have to run to the Civil Court for relief. Can anything more strange and iniquitous be conceived of? Though the Act is harassing, nay, ruinous to the interests of the creditor and the landlord, the reaction on the debtors has not been satisfactory. Their moral instinct, which should have made them recognise their duty and liability to pay off their debts and rents, has been corrupted. Further, in times of difficulty, specially in case of failure of crops, the agriculturists used invariably to get loans from their mahajans and sometimes from their landlords, but this Act has compelled the mahajans and the landlords to stop any such advances, because, nobody can be expected to make advances of money when they know full well that the money advanced will have little chance of being realised so long as the said Act is in force. During the last rainy season (year 1345 B. S.) there has been abnormal flood in this District (Malda) and the people were in great distress. Government could not, and cannot, under the present circumstances, fully relieve this distress. Help from the mahajans and the landlords was necessary, but the people got much less help in the form of loans, etc., this time than they used to get on such occasions before. All this is due to this blessed Act.

Q. 87. Yes, we approve of it.

Q. 88. It has not functioned.

Q. 89. Yes. Easy procedure for realisation of rent in Civil Court by application and not by suit should be provided in law. All notices should be served through post instead of ordinary method. In the alternative, certificate procedure should be made available to the landlords generally.

Q. 90. No, all the landlords should be allowed to utilise the Act. It is a pity that by the amended Bengal Tenancy Act of 1938 the benefits of this Act have been withdrawn from the few private landlords who used to enjoy the privileges.

Q. 91. No, it is not advisable.

Q. 92. (*a*) The sunset law by which the landlords are to pay revenue on the fixed dates and on default the estates are put up to sale and time for payment of revenue is granted on payment of fine and interest operates harshly on the landlord. The time for payment of revenue should be extended to three months without imposition of any fine or interest.

(*b*) Under the Government rules, the zamindars of permanently-settled estates can get remission of revenue under certain circumstances (*vide* question 71 of the questionnaire). But no such remission is given and the rules are not followed in practice. These rules should be followed and remissions should be given in fit cases.

(*c*) The present machinery available to the landlords for realisation of their dues is too costly and cumbrous. It is also unnecessarily harassing and expensive to the tenants. The best thing would be to apply the provisions of the Public Demands Recovery Act to the private estates for prompt realisation of the dues of the landlords (*vide* reply to question 89).

(*d*) After revenue sale there should be provision in law on the lines similar to rule 89, Civil Procedure Code.

Q. 93. The amended Tenancy Act of 1938 has been ruinous to the landlords as it has affected their proprietary right in the soil and along with it the income due to this right. At the same time the Act has taken away the right from the landlords to utilize the Public Demands Recovery Act for speedy recovery of rents. Taking along with this the Bengal Agricultural Debtors Act has greatly affected the landlord. The Act of 1938 has neither been beneficial to the tenants inasmuch as having a free scope for sale, the majority of small occupancy raiyats are free to sell their lands and will in course of time be turned into day labourers. The loss of landlord's fee is heavy and cannot be estimated.

Reply by the Midnapore Landholders' Association.

Q. 1 (1st Part). Other duties and obligations of the zamindars are—

(1) To exert themselves in the cultivation of their lands (section VII, Article VI, para. 2 of Regulation I of 1793).

(2) To enjoin the strictest adherence to the principles of good faith and moderation towards their dependant talukdars and raiyats in the persons whom they may appoint to collect the rents from them (section VII, Article VI, para. 3 of Regulation I of 1793).

(3) Not to realise undue exactions from the dependant talukdars. Rules were framed for this purpose (sections 51 & 52 of Regulation VIII of 1793).

(4) Not to realise any new abwabs or mahtut from the raiyats on any pretence whatever, the existing abwabs or mahtuts and other exactions being consolidated with the asal jama (sections 54 & 55 of Regulation VIII of 1793).

Other duties and obligations were imposed on the zamindars in their respective kabuliyats which they had to execute under section 67 of Regulation VIII of 1793; the principal stipulations being—

(*i*) Embankments, etc., were to be kept up by the zamindars and informations given of escheats, under penalties.

(*ii*) No exactions or oppressive practices were to be allowed towards the raiyats who were not on any account to be dispossessed whilst their tenures subsisted and they performed the conditions of it.

Lord Cornwallis while recommending concession of proprietary right to the zamindar thus expressed his views in a Minute—

"The privilege which the raiyat in many parts of Bengal enjoy, of holding possession of spots of land which they cultivate, so long as they pay the revenue assessed on them, is not by any means incompatible with the proprietary rights of the zamindar. Whoever cultivates the land, the zamindar can no more than receive the established rent which in most places, is fully equal to what the cultivator can afford to pay. To permit him to dispossess one cultivator for the sole purpose of giving the land to another would be vesting him with a power to commit a wanton act of oppression from which he could derive no benefit.......... With the fixity of the demand of the Government a spirit of improvement would be diffused throughout the country and the raiyats would find a further security" and he hoped that "without any further or detailed rules of law regulating the rights and obligations of the parties, the relations of the zamindars and the actual

occupiers of land would be smooth and that things would adjust themselves as of necessity with the fixity of Government demand." (Appendix to the Fifth Report No. 5.)

The zamindars had before this time to perform police duties, these powers were withdrawn from them. They continued to perform postal duties; these powers were also subsequently withdrawn.

Q. 1 (2nd Part). The Permanent Settlement was concluded between the Government on the one hand and the zamindars, talukdars and choudhries on the other; the latter executed kabuliyats in favour of the Government in accordance with the provisions of Regulation VIII of 1793 and Regulation XLI of 1793. The contractual obligations thus entered into could not have affected the rights, if any, which the tenants possessed at this time, they not being parties to it. But an opinion long prevailed that the Government had given the zamindars the property in the soil and had made the raiyats absolutely dependent upon them except in so far as the raiyats were protected by express legislation (Evidence of Mr. Sullivan before the Select Committee of the House of Commons, 1832). Others considered that the Permanent Settlement was intended to interfere with subordinate rights (Evidence of Mr. Fortescue before the same, 1290, 1303, 1316). In the great Rent Case which was decided in 1865 (Thakoorannee Dassee vs. Bisweswar Mukherjee and others, 3 W. R. Act X rulings, page 29) the majority of Judges appear to have held the view that the right of the zamindar was not an absolute right in the soil as against the subordinate holders but that in that direction the rights of the zamindars were limited by the rights of the subordinate holders. Mr. Justice Trevor said, "The words of Regulation I of 1793 clearly show that though recognised as actual proprietors of the soil, that is owners of their estates, still zamindars and others entitled to a settlement were not recognised as being possessed of an absolute estate in their several zamindaris; that there are other parties below them with rights and interests in land requiring protection just in the same way as Government above them was declared to have a right and interest in it which it took care to protect by law; that the zamindar enjoys his estate subject to and limited by those rights and interests; and that the notion of an absolute estate in the land is as alien from the Regulation Law as it is from the old Hindu and Mahomedan Law of the country (page 34).

Mr. Justice Seton-Karr said:—

"I. Neither by Hindu, by Muhammadan or by Regulation Law was any absolute right of property in land vested in the zamindar to the exclusion of all other rights; nor was any absolute estate, as we understand the same in England created in favour of that class of

persons. The raiyat has by custom as well as by law, what he may term a "beneficial interest in the soil'."

"II. The Decennial Settlement while enhancing the status and fixing the rights of the zamindar did not intend to alter, and did not alter, the common law of the country, with regard to the raiyati tenures; khudkasht raiyats whose tenures commenced at or subsequently to the Decennial Settlement were still entitled to hold such tenures either at the pargana rate or, what is the same thing, at rates payable for the lands of a similar description in the neighbourhood."

Mr. Justice Campbell, Mr. Justice Norman and Mr. Justice Macpherson agreed in the view above expressed. Sir Barnes Peacock, however, seemed to consider a greater right to belong to the zamindar. According to him—"It is clear that since Regulation II of 1793, by which the right of property was declared to be vested in the landholders, that is, in the zamindars and independent talukdars, property in land which formed part of a permanently settled estate could not be acquired by reclaiming it from waste. How then could it be acquired except by contract or adverse possession or by prescription going back as far as the time of the Permanent Settlement?" He was of opinion that neither a right of proprietorship nor a right of occupancy could have been acquired by any other means in a permanently settled estate:

Regulation II of 1793 recited that—"the property in the soil has been declared to be vested in the landholders, which was never before formally declared." At the same time Regulation I of 1793 declares that "it being the duty of the Ruling Power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor-General-in-Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil; and no zamindar, independent talukdar or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay." Thus the rights, if any, of the raiyats were not intended to be interfered with. But what was the nature of those alleged rights?

The only raiyats who at that time were deemed to need protection seemed to have been designated as "khudkasht raiyats". It seems apparent from the whole scope of the Regulations for the Decennial and Permanent Settlements that whatever misconceptions may have existed as to their positions, their rights, if any, were not intended to be affected—"khudkasht raiyats" were those raiyats who cultivated the lands of their own village, that is the village in which they resided.

When there was plenty of unoccupied lands and population was sparse the competition was not amongst tenants but amongst zamindars for raiyats. Tenants once induced to settle in the village were fostered and where son was able to step into father's place the arrangement suited both parties too well for any doubt to be raised as to the course to be pursued upon the death of a tenant. Non-fulfilment of the conditions on which the land was cultivated, or non-delivery of the proprietor's share of the produce were the only grounds which rendered it necessary to remove a tenant. Some landholders indeed conceived themselves to possess the power of ousting these tenants in favour of other persons who were willing to give a higher rent; but in a state of society in which the rents were regulated by custom 'not by competition such new tenants did not often present themselves and so the practical exercise of the powers were not frequent. Thus notwithstanding occasional instance of ouster it gradually became usual not to evict khudkasht raiyats so long as they paid their rent (Field's introduction to the Regulations of the Bengal Code, pages 24-25). The temporary tenants were generally residents of another neighbouring village who could not obtain in their own village as much land as they are able to cultivate. These have been held by all authorities to have no rights and to be mere tenants-at-will. "It is generally understood," wrote Mr. Shore in his Minute of 28th June 1789 that "the raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed but this right does not authorise them to sell or mortgage it, and it is so far distinct from a right of property. This, like all other rights, under a despotic or varying form of Government is precarious." The Court of Directors observed that "it appeared to be the general maxim under the Moghul Government that the immediate cultivator of the soil duly paying his rent should not be dispossessed from the land he occupied." (General Letter of the 19th September 1792.) The Court of Directors in paragraph 53 of Revenue Letter to Bengal (Revenue Selections, page 360) wrote,—"The inference seems unavoidable that the persons with whom the Permanent Settlement was made and those who by inheritance or purchase may succeed them, are authorised by existing law to oust even the hereditary raiyats from possession of their lands when the latter refused to accede to any terms of rent which may be demanded of them however exorbitant."

The above accounts will show the precarious nature of the rights which the "khudkasht" raiyats had in the land. It is at present very difficult, nay impossible, to trace the history of every tenure or holding back to the time of the Permanent Settlement. The tenures or holdings existing at or before the time of the Permanent Settlement have changed beyond recognition. If, as is very probable, the "khudkasht" raiyats, existing at or before the time of the Permanent Settlement, lost their holdings in course of time either by eviction or

by any other cause and if the zamindars have let out those lands to a new set of tenants, it would now be useless to enquire whether the tenants at the time of the Permanent Settlement had any right or not. The zamindars being the absolute proprietors of the soil by virtue of Regulation II of 1793 would let out their lands on any term they chose and the new tenants would not be able to claim that the previous tenants had such and such rights. "I am clearly of opinion", said Sir Barnes Peacock, one of the greatest jurists who came out to India, "that a raiyat who after the date of the Permanent Settlement and especially after the Regulation V of 1812 was let into possession by zamindar to hold as tenant for a fixed term or at will or from year to year or without defining the period during which his tenancy was to continue did not before Act X of 1859, merely by reason of an occupation for 12 years become a 'khudkasht' raiyat." (3 W. R. Act X Ruling, page 104). He was also of opinion "that if the raiyat's original holding commenced after the date of the Permanent Settlement (and that if it commenced before, it was for him to prove it either by positive or presumptive evidence), he was entitled to have effect given to any definite engagement between him and the landowner either as to the duration of the term, if any, specially granted to him or as to the amount of rent to be paid or the rates at which it was to be assessed. But that if he failed to prove that any such engagement was entered into, or that the term for which he was to hold was ever fixed or defined or that any stipulation was made as to the rate of rent at which he was to hold, he must be considered to have entered and held as a tenant for one year only and to have continued to hold on with the consent of the landowner from year to year or as a tenant-at-will." (Ibid, pages 101-102).

If this was the nature of the rights of the raiyats, Act X of 1859 and Act VIII of 1885 have made serious inroads on the rights of the zamindars on the ostensible plea of protection of raiyats. Thus the rights of the raiyats which were precarious at the beginning were very much enlarged by subsequent legislation.

Q. 2. There is no express provision in the Permanent Settlement Regulations conveying powers to zamindars to choose his tenants or to regulate the usage of his lands to the economic interests of the province. But in the preamble to Regulation II of 1793 it has been stated that "experience having evinced that adequate supplies of grain are not obtainable from abroad in season of scarcity the country must necessarily continue subject to these calamities until the proprietors and cultivators of land shall have the means of increasing the numbers of the reservoirs, embankments and other artificial works, by which to great degree the untimely cessation of periodical rains may be

provided against and the lands protected against inundation; and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those occasional but less extensive deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precaution to obviate them. To effect these improvements in agriculture which must necessarily be followed by the increase of every article of produce has accordingly been one of the primary objects to which the attention of the British Administration has been directed in its arrangements for the internal government of these provinces. As being the two fundamental measures essential to the attainment of it the property in the soil has been declared to be vested in the landholders and the revenue payable to the Government from each estate has been fixed for ever. These measures have at once rendered it the interest of the proprietors to improve their estate and given them the means of raising the funds necessary for that purpose."

This declaration shows that the proprietors were given the powers to take such steps for the purpose of improving their estates and increasing the produce of land as they deemed advisable. This power must have included the power to choose tenants and to regulate the usage of land to the economic interest of the province. It must also be remembered that in the Great Famine of 1770 A. D. more than one-third of the population of Bengal had been swept away and more than half of the land were lying uncultivated at the time (6 M.I.A. at page 114). Hence it was necessary for the zamindars to whom the lands were transferred to have absolute power to let them out to tenants according to his choice or to take steps to bring them under cultivation himself.

By section 52 of Regulation VIII of 1793 the zamindars acquired the power to let the remaining land of his zamindari or estate under the prescribed restrictions in whatever manner he may think proper. The restrictions prescribed were enumerated in sections 52, 53, 54, 55, 57 and 59. Subject to these restrictions the zamindar acquired all powers to deal with the land as he liked.

Sir Edward Colebrooke on the 12th July 1809 expressed the opinion that the Permanent Settlement "left the zamindars to make his settlement with the peasantry in such terms as he might choose to require." (III Revenue Selections, page 167).

Mr. Mill in his History of British India wrote, "Zamindars were empowered to make with their raiyats any settlements which they chose."

Q. 3. The landlords have played a great part in the economic development of the country since the Permanent Settlement. In the opinion of my Association they have not failed to perform the functions expected of them at the time.

The Permanent Settlement led to a great extension of cultivation (Robinson's Land Revenue, page 29); the waste land which has been variously said to have been one-third or one-half was much reduced in consequence. I may point out that the cultivation of waste land was one of the main objects of the Permanent Settlement. (Raja Leelanund Singh Bahadur vs. Bengal Government, 6 M.I.A. at page 114.)

"Whatever may have been the abstract rights intended to have been conferred upon the zamindars by the Regulations, in practice they have, generally speaking, never been exerted to the extent of producing a rack-rent. This is hardly denied by anyone; and the very considerable margin which any calculation of any rack-rent exhibits beyond that which the landlords even venture to claim in litigation, sufficiently supports the position." (Judgment of Mr. Justice Phear in the Great Rent Case 3 W.R. Act & Rulings at page 52.)

The zamindars have greatly extended cultivation by bringing large areas of waste land under tillage, planting colonies of peasants by means of concessions and pecuniary help, draining marshes, clearing jungles and digging tanks. The actual work of reclamation of soil was done by raiyats but under the indispensible help, protection and guidance of the zamindars. (Seton-Karr's Cornwallis, pages 45-49.)

The proprietorship conferred on the zamindars has also much to do with the introduction into lower Bengal, nearly alone among Indian provinces, of new and vast agricultural industries. (Maine's Village Communities, page 163.)

By the agency of the zamindar a new sanitary measure, a new method of cultivation or a new kind of crop can be quickly introduced among the peasants. "Scarcity is met, relief works are set on foot and supplies are transported (in a famine) with a greater facility, where there are large zamindars, than in provinces where the settlement has been made with the heads of village communities or with each raiyat direct." (Seton-Karr, page 70.)

The zamindar is the only channel through which new knowledge and comforts of civilization can reach the cultivators. His manor is an oasis of culture amidst a dead level of ignorance and poverty. In Bengal it has generally a school, a dispensary and a post office

maintained by the zamindar which benefit all the neighbouring villages. To his temple at Puja time flock all the peasants, male and female, Hindu and Muslim; it plays the part of a club to them and affords the only source of collective amusements to them. (Sir Jadunath Sarkar's Economics of British India, 3rd edition, pages 109-110). His aid to education, sanitation, famine relief, literature and art all over the country has been most liberal, as the Bengal Administration Reports of the several districts and the Famine Commission Reports will amply testify.

My Association does not consider that the zamindars failed to perform the functions expected of them at the Permanent Settlement. Section 7 of Regulation I of 1793 laid down:—

(*i*) that the zamindars will exert themselves in the cultivation of their lands;

(*ii*) that they will discharge the revenue at the stipulated periods without delay or evasion;

(*iii*) that they will conduct themselves with good faith and moderation towards their dependent talukdars and raiyats.

Let us deal with these point after point:—

(*i*) With regard to the 1st clause my Association has already shown that there was great extension of cultivation immediately after the Permanent Settlement.

(*ii*) With regard to the 2nd clause it may be mentioned that the jama fixed was very high. The preamble of Regulation II of 1793 shows that the amount of jama was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the raiyats or tenants for each bigha of land in cultivation, of which after deduction of expenses of collection, 10/11ths were considered as the dues of the Government and the remainder the share of the landlords. The State demand was fixed so high in the hope that the zamindars would succeed by the improvements of their estates to increase gradually the scanty amount left to them. The assessment was as severe as it could possibly be made; the amount realised in 1790-91 being double the assessment of Jaffar Khan and Suja Khan, three times the collection of Maharaja Nanda Kumar in 1764-65 and about double the collections made by Reza Khan in 1765-66, though one-third of the population had been swept away and about half the lands remained uncultivated. (Economic History of British India by R. C. Dutt, Chapter V.)

The revenue fixed was so high that within the course of 15 years the Rajas of Nadia, Rajshahi, Bishenpur, Dinajpur, Kashijora and

may others were almost submerged under its wave. The Birbhum zamindar was completely ruined. A host of smaller zamindars shared the same fate. It is perhaps scarcely too much to say that in a few years a complete revolution took place in the constitution and ownership of the estates which formed the subject of settlement. The dismemberment was quick and the ruin subversive of its very principles. Only the Raja of Burdwan heavily assessed as his estates were escaped through an accident. (Mr. S. C. Mitra's Land Laws of Bengal, Section IV, pages 91—92, 1st edition.)

The. frequent and successive sales of lands which took place in consequence of the default of the zamindars to pay their dues punctually, were found productive of material ill-consequences as well towards the land proprietors and under-tenants, as in their effect on the public interest in the fixed assessment of their land revenue. The Select Committee in their Fifth Report attributed these results to a change of system. They point out very forcibly that the new system had abolished under very severe penalties, the exercise of powers formerly allowed to the zamindars over their tenantry and had referred all personal coercion as well as adjustment of disputed claims to the newly-established Courts of Justice; that these Courts were utterly unable to cope. with the work thus thrown upon them (in Burdwan there were more than 30,000 cases before the judge); that the determination af a single suit could not be expected in the course of the plaintiff's life; that the cultivators, taking advantage of the inability of the Courts to afford the zamindars redress, withheld their rents and in their turn made the zamindars suffer; that the rules for the distraint of the crop or other property founded on the practice in Europe and intended to enable the zamindars to realise their own rents, by which means alone they could perform their engagements with the Government, were ill-understood and not found of easy practice. That the proportion of the produce fixed as the Government share namely tenth-elevenths of the rents paid by tenantry, was in most cases a large proportion and it required a most attentive and active management to enable a land-holder to discharge his instalments with the exact punctuality required by the law.................Under these circumstances the Committee conceived it to have been shown that the great transfer of the landed property by the public sale and the dispossession of the zamindars which took place within a few years after the conclusion of the Permanent Settlement could not be ascribed to the profligacy, extravagance and the mismanagement of the landholders but had to a certain extent followed as the unavoidable consequence of the defects in the public Regulations combined with the inequality in the assessment and with the difficulties, objections and delays with which the many nice distinctions and complex provisions of the new Code of Regulations were

brought into operation among the illiterate persons who were required to observe them. Mr. Marshman correctly says—"In the course of seven years dating from 1793 most of the great zamindars who had survived the commotions of more than a century were ejected from the estates of which they had recently been declared the sole proprietors. It was a great social revolution affecting more than a third of the tenures of land in a country the size of England." The Raja of Burdwan was the only one of the great zamindars who escaped. (Field's Introduction to the Regulations of the Bengal Code, page 79.)

Stringent Regulations were passed for realisation of revenue. By Regulation XIV of 1793 provision was made for realisation of revenue by monthly instalments and for arrest and confinement of zamindars if the third part of the instalment of any one month were not paid by the 15th of the following month and for simultaneous deputation of an Amin to collect the rents from the defaulters. These provisions were made although the Government fully knew that previous to the Decennial Settlement they themselves were unable to realise the amount fixed as due by the Permanent Settlement, and that the zamindars would be unable to pay punctually the heavy amount assessed on them, as most of the lands were full of jungles and lay uncultivated. The result was that most of the landlords were put into prison and the old order threatened to return again. By Regulation III of 1793 the Governor-General-in-Council considered property alone to be sufficient security for the public dues. But it was at the same time provided that if the whole of the amount due were not realised by the sale of their lands they would be liable to be confined for the balance of the arrears of public revenue. It was not till 1799 that the Government realised that the zamindars were unable to pay their dues punctually on account of the default made by the tenants. Regulation VII of 1799 was thereupon passed giving large powers of distraints to the landlords and in case of arrears exceeding Rs. 500 due from the under-tenants landlords were given the power of arrest. The 15th section gave them power to eject the tenants on failure to pay rents. In the 21st section it was stated that these provisions would afford proprietors the means of realising the rent with promptness and facility. It was also provided that if any arrear remained due from a proprietor at the close of the year the Collector was to report the amount to the Board of Revenue and the Board were now for the first time authorised to sell the land without any reference to the Governor-General-in-Council.

(*iii*) The above accounts show that the treatment by the then Government accorded to the landlords was far from generous. Most of the lands were lying uncultivated at the time of the Permanent Settlement. It was therefore the interest of the landlords to see that these lands were brought under cultivation at an early date. It was

against the interest of the landlords to treat the tenants harshly. The tenants had been habitual defaulters from time immemorial. Even in the Moghul times the Government looked up to the so-called Collectors of rents for punctual payments of revenue. This arrangement was made knowing full well that the tenants would not pay up their rents regularly and to ensure payment at stated intervals it was necessary that one person having interest in the land and stake in the country should be made liable for punctual payment of the Government dues without regard to the fact as to whether he was able to collect the rent punctually or not. The same principle seems to have been adopted at the time of the Permanent Settlement. The relation between zamindar and tenant was always cordial as welfare of the landlords depended entirely on the welfare of the tenants. It may be that immediately after the Permanent Settlement some pressure was brought to bear upon the landlords by the Government to pay up their dues regularly. In our part of the country the landlords have always treated the tenants with great kindness and moderation. Up to this day the landlords generally take no steps against the tenants unless 4 years' rents become due and thereafter though a suit for rent is instituted and a decree obtained, the landlord tries every means of realising the decretal amount amicably and it is only on the failure on the part of the tenants to pay up the dues amicably that the decree is put into execution almost when the period of limitation (3 years) is about to expire. In this way though the landlords have to pay up their dues punctually to the Government they do not get rent from the tenants at the proper time and in many cases 7 or 8 years after it has become due. If this is not generous treatment my Association does not know what it is.

Regarding enhancement of rent the statistics collected by the Land Revenue Commission shows that the incidence of rent per acre of raiyati land Rs. 3 in permanently settled estates, whereas in khas mahal it is Rs. 4-11 per acre and in temporarily settled estate it is Rs. 4-6 per acre. This fact shows that the landlords who are enjoying the benefit of the Permanent Settlement are far more generous towards the tenants than the Government.

The landlords established hats and bazars for marketing the produce of their tenants. They excavated tanks and reservoirs of water to afford irrigation facilities and providing the tenants with good drinking water. They have remitted the rents of tenants in the years of famine and scarcity. They have established schools, dispensaries and post offices for the benefit of the public. They have constructed roads, pathways and have liberally contributed money and granted land to the district and local boards and municipal corporations for the purpose. My Association has tried to collect a list of benefactions of the zamindars from contemporaneous newspapers from 1818 to 1840 which is appended herewith.

List of Donations.

	Names of Donors.	Purpose.	Amount.	Published in.
			Rs.	
1.	Maharaj Baidya Nath Ray Bahadur.	Female education ..	20,000	Samachar Darpan on 31-12-1825.
2.	Kasi Kanta Ghosal ..	Secondary education ..	20,000	Bengali Samachar Patra on 29-1-1825.
3.	Guru Prosad Basu ..	Education ..	10,000	Samachar Darpan on 1-4-1826.
4.	Raja Sib Ch. Roy and Raja Narsingha Ch. Roy.	Ditto ..	1,04,000	Samachar Darpan on 27-5-1826.
5.	Raja Baidya Nath Roy ..	Ditto ..	50,000	Samachar Darpan on 5-3-1826.
6.	Raja Narsingha Ch. Roy ..	Ditto ..	46,000	Samachar Darpan on 5-8-1826.
7.	Guruprasad Bose ..	Ditto ..	10,000	Samachar Darpan on 5-8-1826.
8.	Joynarain Ghosal ..	Primary education ..	40,000	Samachar Darpan on 24-4-1819.
9.	Kalisankar Ghosal ..	Treatment of lepers and establishment of asylum.	4,000 and 12 bighas of land.	Samachar Darpan on 5-9-1818.
10.	Radha Madhab Banerjee ..	Treatment of lepers and establishment of asylum.	200 and Rs. 50 yearly.	Samachar Darpan on 5-9-1818.
11.	Kashi Nath Banerjee ..	Treatment of lepers and establishment of asylum.	200 and Rs. 50 yearly.	Samachar Darpan on 5-9-1818.
12.	Subscription raised for flood affected area at Bakargunge.	Help ..	30,000, 700 bags of rice, equal amount of groceries.	Samachar Darpan on 29-6-1822.
13.	Zamindars of Calcutta ..	Help in famine-stricken area in Ireland.	40,365	Samachar Darpan on 12-10-18221.
14.	Maharaj Jites Ch. Ray Bahadur.	Opening a market and constructing a pucca bridge over river Bankeswari.	....	Samachar Darpan on 17-7-1819.
15.	Maharaj Jites Ch. Ray Bahadur.	Excavating rivers Khari and Gour and connecting them with Bankeswari.	....	Samachar Darpan on 21-8-1819.
16.	Raja Baidya Nath Ray Bahadur.	Hospital ..	30,000	Samachar Darpan on 31-12-1825.
17.	Kalinath Ray Chowdhury and Baikunthanath Ray Chowdhury.	Construction of roads at Taki.	1,00,000	Samachar Darpan on 30-6-1882.
18.	Kalinath Ray Chowdhury and Baikunthanath Ray Chowdhury.	Education ..	20,000 yearly and 3 large buildings.	Samachar Darpan on 30-6-1832.
19.	Zamindars of Baranagar ..	School founded ..	....	The Englishman on 29-6-1839.
20.	Rajkrishna Ray Chowdhury and Pran Krishna Ray Chowdhury of Panihati.	Ditto ..	....	Caleuriara on 23-1-1836.
21.	Subscriptions ..	For a school at Midnapore	....	Jnananweshan on 26-7-1834.
22.	Maharaja of Burdwan ..	Ditto ..	1,000	Samachar Darpan on 9-8-1834.
23.	Zamindars of Murshidabad	Ditto ..	....	Samachar Darpan on 27-10-1837.

List of Donations—*continued*.

	Names of Donors.	Purpose.	Amount.	Published in.
			Rs.	
24.	Maharaja Rajnarain Bahadur of Andul.	School founded ..	....	Samachar Darpan on 28-7-1838.
25.	Raja Baidyanath Ray ..	Education ..	50,000	Samachar Darpan on 9-1-1836.
26.	Narsingha Ch. Ray ..	Ditto ..	20,000	Samachar Darpan on 9-1-1836.
27.	Kalisankar Ray ..	Ditto ..	20,000	Samachar Darpan on 9-1-1836.
28.	Banwarilal Ray ..	Education ..	30,000	Samachar Darpan on 9-1-1836.
29.	Guruprosad Ray	Ditto ..	10,000	Samachar Darpan on 9-1-1836.
30.	Harinath Ray ..	Ditto ..	20,000	Samachar Darpan on 9-1-1836.
31.	Siva Ch. Ray ..	Ditto ..	20,000	Samachar Darpan on 9-1-1836.
32.	Raja Tejesh Ch. Bahadur of Burdwan.			
33.	Sreemati Bala Bai ..			
34.	Sreemati Begum Samaru ..			
35.	Raja Sukhomoy Ray ..			
36.	Raja Patani Mull ..			
37.	Raja Sibchandra Ray ..	4 bridges of iron structure, 86 brick-built bridges. 70 roads some of which extending over 24 or 28 miles. 412 tanks. 107 ghats. 15 serais.	....	Government Report, dated 5-3-1835 and Samachar Darpan on 4-4-1835.
38.	Raja Nrisingha Ray ..			
39.	Hakim Mendi Ali Khan ..			
40.	Mitrajit Singha ..			
41.	Raja Krishna Chandra ..			
42.	Raja Ananda Kishore Sinha			
43.	Raja Joyprokas Sinha and 4 others.			
44.	Kalikinkar Palit ..	Road from Hughli to Dhaniakhali.	6,000	Samachar Darpan on 9-2-1839.
45.	Sm. Prankumari Zamindar of Rangpore.	Bridges between Dinajpore and Titalia.	10,000	Samachar Darpan on 21-12-1839.
46.	Haji Md. Mohsin ..	Imambara Hospital, Madras, school and serai.	7,50,000 and a market, the yearly income of which is Rs. 50,000.	Samachar Darpan on 13-6-1832.
47.	Dwarkanath Tagore ..	District Charitable Society.	1,00,000	Samachar Darpan on 10-2-1838.
48.	Matilal Shil ..	Maternity Home ..	1,00,000	Samachar Darpan on 22-2-1840.
49.	Maharaja of Burdwan ..	Hospital ..	7,000	Samachar Darpan on 15-8-1835.
50.	Zamindars of Bengal ..	Ditto ..	15,000	Samachar Darpan on 20-6-1835.
51.	Donations ..	Ditto ..	27,362	Samachar Darpan on 22-8-1835.
52.	Dwarkanath Tagore ..	Medical School ..	2,000 and Rs. 2,000 for 3 years.	Samachar Darpan on 23-4-1836.

List of Donations—*concluded.*

Names of Donors.	Purpose.	Amount.	Published in.
		Rs.	
53. Dwarkanath Tagore ..	Started a Steam Navigation Co. and also for charity.	500 each ..	Samachar Darpan on 4-9-1833.
54. Ram Kamal Sen ..			
55. Biswabhar Sen ..			
56. Matilal Seal ..			
57. Raja Kali Krishna Bahadur			
58. Kanailal Tagore ..			
59. Gopal Lal Tagore ..			
60. Mathuranath Mullik ..	Charity ..	1,000	Samachar Darpan on 4-9-1833.
61. Kumar Banamali Lal ..	For watering Chitpore Road.	20,000	Samachar Darpan on 16-1-1933.
62. Ramandas Mukherjee, Zamindar of Ula.	Bridge and Road ..	1,200	Samachar Darpan on 11-1-1834.
63. Sambhunath Mukherjee ..	Ditto ..	1,000	Samachar Darpan on 11-1-1834.
64. Isvar Ch. Mustafi ..	Ditto ..	1,000	Samachar Darpan on 11-1-1834.
65. Amritapran Mustafi ..	Ditto ..	1,000	Samachar Darpan on 11-1-1834.
66. Maharani Kamal Kumari and Dewan Hari Ch. Babu.	Public work ..	45,000	Samachar Darpan on 28-9-1833.
67. Maharaja Panwarilal of Birbhum.	Road extending over 40 miles and bridges.	....	Jnananwesan on 17-12-1836.
68. Dwarkanath Tagore ..	District Charitable Society.	500	Samachar Darpan on 8-4-1937.
69. Bejoy Gobinda Sinha ..	....	....	Samachar Darpan on 22-9-1838.

Q. 4. The proposition enunciated in the first portion is not correct. That the zamindars were the actual proprietors of the soil before the Permanent Settlement admits of no doubt, but the term "proprietors" was not understood in the Muhammadan times in the sense in which it is used now. A despotic Government used to oust by force those persons who might have absolute right but who acted against the apparent interest of the State. These persons had no means or machinery by which they could enforce their rights against the State. Hence there has been much confusion in understanding the real rights of zamindars, chowdhuris and other persons of the same class.

In Hindu times the headman of a village was called a "gramani." This "gramani" collected the State share of the produce and had important military and police functions. The "gramani" had a share of the king in food drink, wood and other articles as his perquisites; above him were the superintendent of the villages who was to have the produce of two plough lands, the superintendent of 20 villages who was

to have the produce of 5 villages and so on. All lands belonged to the Crown. But the village headman had interest in the village which was entrusted to his charge. The office of the headman was hereditary. He could not be dismissed by the State except for the failure to make good the revenue assessed upon the village and for the due payment of which he was responsible. In fact he was in something like the same position as the zamindar subsequently. There are instances of the sale of the office by the occupant (Land Tenure by a Civilian, pages 33, 76 and 78). The pargana or bishou was the smallest official fiscal division consisting of a number of villages administered by a chaturdhurina or chowdhury (literally holder of fourfold burden) so called because he had four functions to perform namely, military, police, fiscal and judicial.

In Kautilya's time all the lands belonged to the Crown. Other persons having different interests in the same. The Collector-General divided the villages in four classes, some of which provided military contingents, some paddy, beasts and gold, some forest produce and the others other necessary materials. One superintendent was placed over five to ten villages, another kept the accounts, all being subordinate to a divisional officer of the king. If a tenant did not cultivate the land he could be ejected from his holding. The superintendent, the accountant and others got lands as their remunerations and the offices were generally hereditary.

In the Vedic age the head of the family appears to have been the owner of the property of the family. Land was owned by individuals or families; in one hymn of a maiden, Apala by name, places her father's cultivated field on the same level with his hair as a personal possession. During the Brahmana period, the commoner had no legal right to his landholding or to his private property if the king decided to take them from him, and if he was allowed to retain them he paid for them in tribute and in the duty of supporting others. This refers, no doubt, to the king's privilege of assigning to his nobles the right to receive food from the common people and thus of making provision for the maintenance of the nobility, who assisted him in the protection of the country and in the administration and conduct of justice. By this means the nobles came more and more to occupy the position of the landholders under the kings, while the vaisyas approximated to the position of tenants. Moreover the nobles may well have received from the king, as a result of successful onslaughts on the aborigines, grants of conquered lands and slaves, which they held in full proprietorship, subject to the political authority of the king. Among the vaisyas again distinctions were growing up; originally agriculture was carried on by Aryan tillers, but in the period of Brahmans the position was gradually changing; and for the peasant working in his own fields. was being substituted the landowner cultivating his estates by means

of slaves. (Cambridge History of India, Volume I, page 128.) These nobles were the origin of the zamindars.

In the early Buddhist period, we meet with a peculiar tenure called Rajabhoga of which something will have to be said later on. The rural economy of a part of India as this period was based chiefly on a system of village communities of landowners. The village headman was called the Gamabhajaka who took the place of gramanis. Big estates are often mentioned in the Jatakas framed by Brahmanas who employed hired men to guide plough and oxen.

Gautama and Jajnavalkya clearly recognise ownership in land of persons other than the cultivator.

During the Pal dynasty the zamindars were known as Rajanaks. Some of them like Ichhai Ghose of Dhequr and Lau-Sen of Moyna were very powerful. The Rajanaks are mentioned in copper plate grants of the Pal and the Sen dynasties.

On this subject the following extract from the Fifth Report is deserving of attention:—"It is represented by the Board of Revenue in their report in favour of the village system of rent that it was as old as the age of Manu; but if by this be meant that such a mode of settlement was in conformity to the general and settled practice of the Hindu Government, the fact appears to be at variance with such information as the Committee have been able to collect in their enquiries upon their subjects. The usual course pursued by them for the realisation of their territorial revenue appeared to have been to collect it from those having an interest in the cultivation of the soil, either in proprietary right or as tenants through the medium of their own officers." (Fifth Report, Volume II, p. 113.)

Coming to the Muhammadan times the Muhammadan system of Government sems to have been a non-hereditary system while the Hindu system was essentially hereditary. Sir George Campbell says—"The Muhammadan system was quite non-hereditary, I may say anti-hereditary." (Cobden Club Essay, p. 152). One result of this difference between the two systems appears to have been that a long struggle between the opposing principles took place; the Hindu clinging to the hereditary principles, the Muhammadans seeking to cut it down as much as possible; and where it proved too strong for them, insisting at least upon the formal recognition of the principle of choice; for instance by requiring the acceptance of a sanad and the payment of fees on succession in many cases. (Phillip's Land Tenures, p. 42.)

According to the Muhammadan theory, the Sovereign was considered the original proprietor of the land and he received a share of the produce but when this share was commuted into a fixed money rent, he ceased to be a proprietor. (Baillie's Land Tax XVII.) The Ain-i-Akbari says, "In former times the monarchs of Hindustan exacted the

sixth of the produce of the land; in the Turkish Empire the husbandman pays the fifth, in Tooran the sixth and in Iran, the tenth. But as the same time there was levied a poll tax which was called khiraj. Cobad disapproved of this arbitrary mode and intended to have made a measurement of all the arable land in his empire for the purpose of ascertaining an equitable fixed revenue. He, however, died before he could carry this intention to execution, but his son Nowsheervan adopted his plan and instituted a land measure of 60 square kissery gaz and computing the produce of such a quantity of land to be a kefeez valued at 3 darhams. He determined that the third part should be the proportion of revenue. The Muhammadan make 3 distinctions in conquered lands, asheree, khirajee and sulhee. The asheree and khirajee are each subdivided into 5 kinds and the sulhee into 2......... In every kingdom besides the land tax Government exacts something from the property of every individual and there are some taxes as well......... His Majesty abolished all abitrary taxes, he settled the gaz, the tanab and the bigha, after which he ascertained the value of the land and fixed the revenue accordingly."

Akbar abolished all arbitrary taxes and prepared a scheme to assess the revenue on the true capacity of the land. For this purpose the lands were divided into 4 classes—(1) *Pullaj* land which was cultivated for every harvest, (2) *Peroti* land allowed to lie fallow for a short time to recover its strength, (3) *Chechor* land or land which had laid fallow for 3 or 4 years from successive rains or inundation, (4) *Bunjer* land or land which had lain fallow for 5 years or upwards from the same causes. In the Appendix to the Fifth Report it is stated that there were several rates for assessment. If the revenue were paid in kind, the Government share of the ordinary crop was one-half, one-third was taken of crops grown out of season or artificially irrigated and one-fourth to one-eight of crops difficult to cultivate. But it is said that all those might be commuted for a fixed money payment of one-fourth of the gross produce estimated by taking an average of the different kinds of lands irrespective of the actual crop cultivated. The cultivator may choose to pay either in kind or in money but he was bound to make his choice of the two methods and to adhere to one of them. Though this method was never fully adopted in Bengal, it was advised to put a limit to the zamindari demand and not to do away with his right altogether.

"A zamindar," said Mr. Harington, "appears to be under the Moghul constitution and practice, a landholder of peculiar description not definable by any term of our language; a receiver of territorial revenue of State from the raiyats and other under-tenants of the land; allowed to succeed to his zamindari by inheritance; yet generally required to take out a renewal of his title from the Sovereign or his representative on the payment of a fine of investiture to the Emperor

and the nazarana or a present to the provincial delegate, the Nazim; permitted to transfer his zamindari by sale or gift yet commonly expected to obtain previous special permission; privileged to be generally the annual contractor for the public revenue received for his zamindari, yet set aside with a limited provision in land or money when it was the pleasure of the Government to collect the rents by separate agency, or to assign them temporarily or permanently by the grant of a jaigir or altamgha; authorised in Bengal since the early part of the 18th century to apportion to the pargana, village and lesser divisions of lands within his zamindari, the abwabs or cesses imposed by the Subedar usually in some proportion to the standard assessment of the zamindari established by Todar Mal and others, yet subject to the discretionary interference of public authority either to equalise the amount assessed or particular divisions or to abolish what appeared oppressive to the raiyats; entitled to any contingent emoluments proceeding from his contract during his period of agreement, yet bound by the terms of the tenure to deliver in a faithful account of his receipts." (Harington's Analysis, Vol. III, p. 400.)

We read in the Ain-i-Akbari that the zamindars of Bengal were mostly Kayasthas by caste, that the militia force in the province consisted of 23,330 cavalry, 801,150 infantry, 1,170 elephants, 4,260 guns and 4,400 boats and that the revenue of Bengal including Orissa was about Rs. 15,00,000. "Speakers and writers on Indian subjects," wrote the late Mr. R. C. Dutt, "sometimes make the mistake of supposing that the zamindars were mere middlemen and rent collectors under the Muhammadan rulers and that they were raised to the status of landlords in the English sense of the word by Lorn Cornwallis. This is not the fact. Zamindars have not only been *de facto* landlords but also *de facto* rulers within their own estates since the dawn of history. They performed the same useful and necessary part in the history of Bengal previous to the British Rule, that the Barons of Europe performed or were supposed to perform in the Middle Ages. They preserved peace and order within their own estates, repressed crimes and punished offenders, adjudicated cases and protected labourers and cultivators and represented and maintained the royal authority and influence. This system of administration was no doubt rude, their exercise of power was often arbitrary, and their forces were often engaged in warring with each other as was the case in Europe down to the 18th century. But in spite of all these, the zamindars of Bengal played a useful and necessary part in the history of those times; they maintained order in the interior where the King or the Subedar had no means or agency to preserve the peace; they settled disputes, adjudicated cases and punished crimes; and they encouraged learning and arts in their courts. The literature and the traditions of Bengal reflect to this day the position and influence which zamindars owned in the

political and social economy of the province. (Fourth letter to Lord Curzon, dated the 25th April 1900.)

Mr. Francis, in a plan of settlement, dated the 22nd January, 1776, asserts that "the land is the hereditary property of the zamindars. He holds it by the law of the country and tenure of paying a certain constitution to Government." And again "the inheritable quality of lands is alone sufficient proof that they are the properties of the zamindars, talukdars and others to whom they have descended by a long course of inheritance. (Harington's Analysis, Vol. III, p. 368.) The Royroyan says:—"The zamindars of a middle and inferior rank such as those of Muhammad Amirpur, Sarfarazpur, etc., and the talukdars and moozkoories hold their lands to this day solely by virtue of inheritance; whereas the superior zamindars such as those of Burdwan, Nadia and Dinajpur, etc., after succeeding to their zamindaris on the ground of inheritance are accustomed to receive on the payment of a nazarana, peshkash, etc., a dewani sanad from Government. In former times the zamindars of Bishenpore, Pachete, Birbhum and Roshanabad used to succeed in the first instance by the right of inheritance and by the established practice of their respective families; and to solicit afterwards as a matter of course a confirmation from the ruling power." (Harington's Analysis, Vol. III, p. 341.)

Mr. Shore in a Minute of 8th December 1789 says:—"The most cursory observation shows the situation of things in this country to be singularly confused. The relation of zamindar to Government and of a raiyat to a zamindar is neither part of a proprietor nor that of a vassal but a compound of both. The former performs the act of authority unconnected with the proprietary right; the latter has rights without real property; and the property of the one and the rights of the other are in a great measure held at discretion. Such was the system which we found; and which we have been under the necessity of adopting. Much time will, I fear, elapse before we can establish a system perfectly consistent in all its parts; and before we can reduce the compound relation of a zamindar to Government and of a raiyat to a zamindar to the principles of landlord and tenant. (Harington's Analysis, Vol. III, p. 398.)

Mr. Harington remarks: "In truth this is the principal source and origin of whatever confusion really exists in the discussions which have taken place relative to the tenures of land in India. It is by attempting to assimilate the complicated system which we found in this country with the simple principles of landlord and tenant in our own, and specially in applying to the Indian system terms of appropriate and familiar signification which do not without considerable limitation properly belong to it, much if not all of the perplexity ascribed to the subject has arisen. If by the terms "proprietor of land" and

"*actual proprietor of the soil*" be meant a landholder possessing full rights of an English landlord or freeholder in fee simple, with equal liberty to dispose of all the lands forming part of the estate, as he may think most for his own advantage; to oust his tenants, whether for life or for a term of years, on the termination of their respective leaseholds; and to advance their rents on the expiration of leases at his discretion; such a designation, it may be admitted, is not strictly and correctly applicable to a Bengal zamindar; who does not possess so unlimited a power over the khudkasht raiyats and other description of under-tenants, possessing as well as himself certain rights and interest in the lands which constitute his zamindari." But Col. Wilks, with a view to guard against this ambiguity of expression, has defined the sense in which he proposes to use the word "proprietor" as follows:—"In England a proprietor of land who farms it out to another, is generally supposed to receive as rent a value equal to about one-third of the gross produce. This proportion will vary in different countries according to circumstances; but whatever it may be, the portion of it which remains after payment of the demands of the public may safely be described as the proprietor's share of the produce of his own land; that which remains to him after defraying all public taxes and all charges of management—whatever we can find this share and the person entitled to receive it, him we may without any risk of error, consider as proprietor; and this right has descended to him by fixed rules from his ancestors, as the hereditary proprietor." According to this definition, it cannot, I think, be denied that a zamindar is in a restricted sense as an hereditary proprietor. His zamindari descends to his legal heir by fixed rules of inheritance. It is also transferable by sale, gift or bequest. And he is entitled to a certain share of the rent produce of his estate, if it be taken out of his management; or if he manage it and engage for the public assessments, he receives whatever part of the rent may remain after paying the assessment and defraying the charges of management. It must, however, be allowed that the peculiar tenure of a zamindar, as it existed under the Mussalman Government of Bengal and the adjacent provinces (especially with regard to the principal zamindars who held their zamindaris with certain services attached to them under a sanad, or grant of confirmation) partook more of a nature of an hereditary office with certain rights and privileges attached to it, than of a proprietary right in an estate; though it is justly observed by Mr. Rouse that "if the zamindari be even an office and such office given possession of land, which has by claim or custom descended from father to son or to collaterals, with other circumstances incident to property such as mortgage, alienation bequest or adoption, it is in reality a landed inheritance." (Harington's Analysis, Vol. III, p. 398-400.)

Mr. Grant in his Political Survey of the Northern Circars published on December 20, 1784, attempted to show that the zamindar was

merely a temporary official and that the right of property in land vested absolutely in the State. This interpretation was adopted by the Commitee of Revenue in 1786. Later, however, in the same year the new Board of Revenue revoked the policy of the defunct Committee (*see* letter issued by the Board of Revenue on July 18, 1786) and in a Minute written on April 2, 1788, Mr. Shore attacked Grant's views vigorously. "The rents," he wrote, "belonged to the Sovereign, the land to the zamindar." Mr. Grant wished to show that the zamindar had no permanent right whether as proprietor of the soil or as an official who collected and paid the rent; for proof he pointed to the policy of Murshid Kuli Khan. In this he was clearly wrong; during the Moghul period all offices had tended to become hereditary and accordingly permanent, and the history of zamindari development in Bengal clearly shows that the zamindar was removable only by force or fraud. There are sanads which show that the dispossessed zamindars had right to receive an allowance from their estates. This clearly implies an interest greater than that of a temporary official removable at will.

My Association may mention here that Statute 24 George III Cap. 25 known as Pitt's India Act was passed in 1784. The 39th section of this Act required the Court of Directors "to give orders for settling and establishing upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which the tributes, rents and services of the rajas, zamindars, polygars, talukdars and other native landholders should be in future rendered and paid to the United Company." This shows that the Parliament decided at the time that the zamindars and talukdars were landholders and that they paid rent to the Company and it might be rendered by services also. This was a Parliamentary decision and neither the Court of Directors nor the Indian Legislatures had power to go behind it and the declaration made in it that the rajas and talukdars were landholders and paid rents was binding on them as it is on the present legislature. In our opinion it would thus be futile to enquire at the present state whether zamindars or talukdars and other landholders had interest in the land they held.

It may be pointed out here that on December 20, 1757, a second treaty was concluded with Mir Jaffar, then Nazim of Bengal, confirming the earlier treaty of February 9, and extending the area granted to the Company over a tract of 882 sq. miles known as the 24-Parganas. This grant which was comprised by a sanad of the Dewan in 1758 gave the Company the right of a zamindar over this tract on the payment of an annual revenue of Rs. 2,22,958 to the Nazim. This grant gave no Sovereign power and placed the Company under the Nazim as a landholder. It is admitted on all hands that by that grant the Company acquired the proprietorship of the 24-Parganas. If that is so, we fail

to see why the other landholders should be considered as mere office-holders.

Before the Permanent Settlement, as has been pointed out by Mr. George Campbell, there existed various tenures under the zamindars, known as dependent taluks, grantees, howalas, and other fixed and transferable under-tenures; their interests were recognised and protected at the time of the Permanent Settlement (see Campbell's Bengal Administration Report, p. 79.) This very fact shows that the zamindars or proprietors were proprietors from before and created these under-tenures which also possessed interest requiring protection.

Mr. Shore describes clearly and forcibly what he understood to be the rights of the zamindars of Bengal. "I consider the zamindars as the proprietors of the soil, to the property of which they succeed by right of inheritance, according to the laws of their own religion and that the Sovereign authority cannot justly exercise the power of depriving them of succession or of altering it when there are any legal heirs. The privilege of disposing of land by sale or mortgage is derived from this fundamental right and was exercised by the zamindars before we acquired the Dewani. Despotism would extend its claim to the subversion of the rights of the zamindars without an avowed and direct infringement of them but its practice generally speaking has been in favour of them. The zamindars of Bengal were opulent and numerous in the reign of Akbar and they existed when Jaffar Khan was appointed to the administration under his successors. Their respective territorial jurisdictions appeared to have been greatly augmented and when the English acquired the Dewani the principal zamindars exhibited the appearance of opulence and dignity (paragraphs 370 and 382 of the 5th Report).

The only person of note who struck a discordant note as pointed out before was Mr. James Grant. Mr. Seton Karr writes, "The celebrated Analysis of the Finances of Bengal by Mr. James Grant contains an enormous mass of information, though the conclusions are often unsound and the deductions untrustworthy" (p. 28). Mr. James Grant was the sheristadar or keeper of the records. His arguments were effectively answered by Sir John Shore and need not be recapitulated here.

Such evidence as my Association has been able to gather from contemporaneous literature also points to the same conclusion. The Bengali literature of the period is vast and an attempt to give an extract of the various references of each book would be beyond the scope of the present note. We shall only mention as an illustration one well-known book, namely, the Kabikankan Chandi. The author Mukundaram mentions that he was an inhabitant of Daminya where he used to cultivate lands in the taluk of Gopinath Neogi. When Mansigh

became the Governor of Bengal one Mahmud Sharif became the landholder of the area and he began to oppress the tenants so much that Mukundaram had to fly from the country, penniless and starving. He reached the Brahmanbhum pargana in the district of Midnapore where Banku Ray was the zamindar, Mukundaram was employed as the tutor of his son Raghunath and under his patronage he composed the famous poem. The description in the book goes to show that the zamindars were virtually independent within their own jurisdiction.

The ancestry of some of the big zamindars of Midnapore may be traced far back to the Muhammadan times. The Raja of Bogree claimed an ancestry dating back to 1165 A.D. His zamindari was, however, confiscated by the British Government for his alleged complicity in the Chuar rebellion. The zamindari of Belaberia was founded by Nimai Chand Paharaj who flourished in the 15th century A.D. The zamindari of Brahmanbhum pargana was founded so far back as 850 A.D. by one Umapatideb Bhattacharya. The zamindari came to an end in 1761 A.D. when it was absorbed by the Burdwan Raj. In the Tujjuk-i-Jahangiri one Haribhan, who was the zamindar of Chandrakona, is mentioned as a rebel. The zamindars of Jalamutha claimed their ancestry from Ramchandra Chowdhury who held his zamindari between 1694 to 1734. The zamindars of Moyna claimed their descent from Raja Lou Sen of whom we have spoken before. The Rajas of Tamluk date their ancestry from Kalu Bhunia who flourished in the fourth century A.D. The history of these zamindars shows that they were proprietors of soil and not collectors of revenue merely.

The permission granted by the Emperor Aurangzeb to the English to purchase Cuddalore and other towns shows that there was a right of property which was acquired by the English. The farman from the Emperor Ferrukseer in 1717 contains the following terms amongst others: "The Company's factories established in Calcutta and the sum of Rs. 1,195-6 is annually paid on account of the rents of the talukdars of Calcutta, Sutanati and Govindapore, formerly procured from the zamindars, be pleased to grant 38 villages more, situated near the former at the annual rent of Rs. 8,121-8 which shall be regularly discharged. The orders of the villages formerly purchased are confirmed as before; and we have bestowed the talukdari of the additional 38 villages but let them purchase them of the proprietors." The *husbool hukum* of the Vazir in conformity to the above expressly directs that the purchase of the 38 villages must be made agreeable to former precedent with the consent of the proprietors. (*Vide* Report of the Select Committee in 1772 quoted in Harington's Analysis, Vol. III, p. 308.) Instances of sales of zamindaris have been quoted in the said volume.

The following is an extract from history compiled by order of Mr. Vansittart when Governor of Bengal:—"Jaffar Khan (then Nazim),

knowing that upon the demise of the officers of the Crown, that is to say, the Munsabdars and Omras, their effects were sequestered with utmost rigour, with a view to provide for his grandson Sarfaraz Khan, purchased the zamindari of the town of Murshidabad and Kismat Chuna Colly from Mohamed Aman, the talukdar with the produce of his jagir; and named it Asad Nagar, and had it enrolled in the royal registers and those of the Kanungos, that after the decline of his fortune a pittance might be left from the profits of the land after discharging the royal rents for the subsistence of his descendants." (Quoted in Harington's Analysis, Vol. III, p. 309.)

Mr. Shore has also quoted many instances of the inheritance of zamindari tenures in Appendix No. XV to his Minute (Harington's Analysis, Vol. III, p. 310).

Gholam Hossein Khan, formerly Nazim of Bihar and holder of many important posts and the author of Seir-ul-Mutakherin was asked directly the question "What is a zamindar and what is a zamindari?" He gave the following characteristic answer—"The literal meaning of the word 'zamindar' is possessor or proprietor of land; in the same manner as 'maldar' signifies possessor of property or 'zardar' possessor of money; but in its general accepted meaning it implies the proprietor of land who pays rent to the Emperor or any other ruler, and is equally applicable to every landholder, whether possessing a greater or less number of villages or only a portion of a village. Land being a species of that property which is deemed transferable in all countries, the proprietorship of it may be obtained in the same manner as that of any other property of a similar nature, by gift, sale or inheritance. The true and rightful proprietorship of land may be obtained by either of the three following modes:—by purchase, with mutual consent of the parties; by gift from the proprietor; or by inheritance". (Appendix No. 16 to Mr. Shore's Minute.) He was put many other searching questions regarding the rights, duties, and privileges of the zamindars. These are to be found from pages 315 to 346 (Harington's Analysis, Vol. III). The replies clearly show that the zamindars were the real proprietors of the soil.

Royroyan was also asked the question, "What is a zamindar and what is a zamindari?" His answer was "A zamindar is a person possessing hereditarily on the condition of obedience to the Ordinances of the Government a tract of land under the denomination of a pargana or a chukla subject to the payment of revenue; and a zamindari is that land registered in the records of Government in the name of such person." He was also asked the question "Is the property of the soil vested in the king, zamindar or the raiyat?" His answer was, "The Sovereign is the proprietor, as well of the revenue as of the country; and as the revenue arises from the land he is so far the proprietor of the

soil also. In consequence of paying the revenue, of submitting to the authority of the Sovereign, and of succeeding to the inheritance of a zamindari by lineal descent, with power of alienation by gift or sale, a zamindar becomes the proprietor *of the lands of his own* zamindari. A raiyat being a tenant, holding under a *patta and* possessing no authority to sell or give away, has consequently no property in the soil." (Appendix No. 17 to Mr. Shore's Minute.)

Q. 5. The first point to be dealt with is the contention that the Permanent Settlement was a pledge to which the tenants were not parties. After all, the Permanent Settlement was a settlement by the Government in favour of persons who were zamindars from a very long time. My Association does not see why the tenants need be party to such a settlement. Even if it be assumed for the sake of argument that the zamindars had no right to the soil, then the Crown had every right to part with some of its interest in favour of an intermediate person on whom some special rights and obligations may be conferred. As the tenants' rights, if any, are not being taken away or interfered with, they would be bound to pay rent to the intermediate holder who derives his interest not from the tenants but from the Crown. The rights of the zamindars being part of the rights of the Crown are superior to those of the tenants and the tenants cannot, under any systêm of jurisprudence, annual or seek to interfere with the rights of the superior holders. The Permanent Settlement being a pledge given by the Crown to the zamindars on many occasions can be annulled only by mutual consent. The present Government being the successors-in-interest of the previous Government as well as the East India Company cannot annul or revoke the pledge without the consent of the zamindars. Besides this, the Government entered into contractual obligations with the zamindars as provided by section 67 of Regulation VIII of 1793. Hence it is not possible for this Government which is bound by contract to rescind it without the consent of the zamindars.

As to the contention that the Permanent Settlement was a measure which permanently crippled the financial resources of the country, my Association needs only point out that the Government of that time made the pledge and entered into the contract with its eyes wide open. Sir John Shore took strong exception to the undertaking to make the proposed settlement permanent on the expiry of 10 years' time. His arguments developed from his previous Minute of June 18, 1789; he maintained that the period of 10 years would be fully adequate to enable the zamindars to attend to the development of their estates; he feared that a Permanent Settlement would only tend to perpetuate the abuses which might otherwise be abolished at the end of 10 years, time. "I am not sure," he added, "that the plan will be executed with

such ability as to justify a recommendation of its confirmation in perpetuity." Lord Cornwallis replied in his Minute of September 18, 1789, *that a ten years' lease would be equivalent to a farming and that* it would not be sufficient to ensure the clearance of the extensive jungles of Bengal which he estimated at one-third of its area, if the zamindars had still to fear additional assessment at the end of the period. In his Minute of February 3, 1790, Lord Cornwallis expressed the opinion that the profits of zamindars would increase so rapidly that the Government revenue would be fully safeguarded even against the effects of drought and famine. The ability of the proprietor to dispose of his lands at will would consolidate his position and the power to sell or mortgage would safeguard the interest of Government; the disappearance of the bad landlord would be a positive advantage to the country. He maintained that the Government must retain the power of interfering in the relation between the landlord and the tenant; even more, if Government did not interfere natural economic laws would come into operation; the raiyat would desert his land and the landlord would suffer. (5th Report, pages 483—493.)

My Association has already pointed out that the assessment at the time of the Permanent Settlement was as severe as could possibly have been made. The amount realised in 1790-91 was double the assessment of Jaffar Khan and Shuja Khan, 3 times the collection of Maharaja Nanda Kumar in 1764-65 and about double the collections made by Reza Khan in 1765-66 though about half the lands were lying waste at the time. Roughly speaking the land revenue of Bengal, Bihar and Orissa demanded from the zamindars by the Government of Akbar, but perhaps never fully collected, was about 2 crores of rupees. The land revenue of the same provinces actually collected in 1897-98 was nearly 4 crores of rupees. The zamindars submitted to such heavy assessment only on account of the solemn pledge that assessment would be made permanent. Can the Government now turn round and say that the Permanent Settlement ought to be scrapped because it has crippled the financial resources of the country?

The policy of Lord Cornwallis in fixing for ever the land tax payable to Government was a matter of necessity and the despatch of the Court of the Directors, dated the 29th of September 1792, endorsing the Governor-General's view was in accordance with the spirit of the age and the views of the Parliament as contained in Pitt's India Act. The necessity of paying the great military and civil establishment of the Company and the expenses of the Mysore and Carnatic Wars and the dividends payable to the proprietors (which had been greatly enhanced) required the punctual realisation of the land-tax and the amount needed was large. To avoid fluctuation and ensure punctual realisation, some means was absolutely necessary to be adopted and the

Government adopted not only the best but the event *shows the most* successful one (S. C. Mitra's Land Laws of Bengal, 1st edition, page 88). The same authority goes on to say "Financiers in India now regret that there was this Parmanent Settlement as the zamindars of the present day make large profits. That some of them do make some profits is undoubted. A good many of them, however, derived title by purchase, *i.e.*, outlay of large capitals. These financiers think that it is the State and not the zamindars who should have profited by the increase of the cultivated area in Bengal and the more manifold increase in the value of the produce. But they forget that the East India Company would have been reduced to bankruptcy if they had not adopted the principle of Permanent Settlement; they forget that the vested rights of a large number of zamindars required Permanent Settlement and that taking all things into consideration the State has not suffered" (page 92).

On the faith of the pledge given at the time of the Permanent Settlement, many inhabitants of Bengal have invested many crores of rupees in purchasing zamindari rights in properties, some of them paid as much as 40 times the profits at the time of purchase. If the Government now resile from their solemn pledge, its credit would be gone forever and no one will feel secure under such a Government. The G. P. Notes will be greatly depreciated in value and capitals will be shy and fly out of the province. The Government who derived large benefits from the Permanent Settlement cannot now turn round and say that the Permanent Settlement should be annulled. The landlords after entering into engagements with the Government made vast improvements in their estates, excavated tanks, wells, reservoirs, constructed roads, established hats and ganjas and did many other works for the improvement of their estates. In doing these they have laid out vast sums of money on the faith of the pledge given to them by the Government. After all, what would have the Government done if they had realised the profits made by the zamindars? Could they have done more than what the zamindars have done? We have already in reply to question 3 given a list of some of the works done by the zamindars. If the lands had been in khas possession of the Government the margin of profits which are now enjoyed by the zamindars would have been greatly reduced in consequence of the fact that the Government would have to set up costly establisments for the purpose of realising rents from the tenants and the margin of profit available to the Government could not have been invested in works of charity, benevolence or in education, sanitation and other beneficial objects.

That the Permanent Settlement was a deliberate measure is also proved by the fact that the then prevailing feeling in England about its own land tenures, coupled with the exigencies brought on by the

revolutionary war resulted in the passing of the Statute 38 George III Cap. 60, whereby the tax on landed estate in England was perpetually fixed. English landed proprietors have since then been enjoying and appreciating the benefits of Permanent Settlement in England under the said Pitt's Act of 1798; whereas it has become a fashion for some time past to sneer at the opinions of statesmen like Lord Cornwallis, Sir Thomas Munro, Wellesley, Lord Hastings, Lord Canning, Lord Lawrence, Lord Halifax and Sir Stafford Northcote; of revenue officers of great repute such as Mr. R. K Puckle (late Director of Revenue Settlement and Member of the Board of Revenue, Madras), Mr. J. H. Garstin (late Member of Council, Madras), Mr. J. B. Pennington (late Collector of Tanjore, Madras), Mr. H. J. Reynolds (late Revenue Secretary to the Government of Bengal, and late Member of the Legislative Council of the Governor-General of India), Mr. R. C. Dutt (late Officiating Commissioner of Orissa Division and Member of the Bengal Legislative Council), Mr. C. J. O'Donnell (late Commissioner of Bhagalpore and Rajshahi Division, Bengal), Mr. A. Rogers (late Settlement Officer and Member of Council, Bombay), Sir W. Wedderburn (late Chief Secretary to the Government of Bombay), Mr. J. P. Gordridge (formerly Officiating Settlement Commissioner, Central Provinces) and those of eminent judges like Sir Richard Garth (late Chief Justice of Bengal) and Sir John Jardine (late Judge of the High Court, Bombay) as being out of date. But the impartial students of history will occasionally turn from the made-to-order opinions of modern times to the free discussion of the past generations; to the opinions of men who watched the operation of the Permanent Settlement from the earlier period; judged its merits from the highest standpoint namely that of the happiness of the people of Bengal and recommended its extension to the other parts of India.

My Association has shown that the Permanent Settlement when it was enacted did not cripple the resources of the country. Can it be said that it crippled the resources of the country one hundred years afterwards? According to the estimate of Lord Cornwallis about one-third of the lands lay covered with jungles at that time. Still the assessment made was more than double the assessment of Jaffar Khan and Suja Khan. Therefore the assessment made by Lord Cornwallis was about four times the assessment of Jaffar Khan and Suja Khan. Therefore Lord Cornwallis must have calculated at that time the limit which the lands may yield at the future time. That this actually took place will be apparent from the following passage of the Fifth Report—"This as it was subsequently to become the limit of the resource which the Government could ever in future derive from the land, it was necessary should be fixed with the utmost accuracy." If even after such calculation and assessment the landlords have succeeded in making

some profit out of the bargain, that must have been done by their own exertions and they should reap the profit they fully deserved.

If we suppose for a moment that a man takes a permanent lease of a tract of land and by evolving a chemical formula or effecting some improvement by means of physical science succeeds in making large profits out of the land, would it be fair and reasonable that the Government should annul the lease and resume the land for the purpose of appropriating the profit to itself? Is it fair and reasonable that all sources of large profit though started under private enterprise and capital after some sort of permanent engagement with Government should be appropriated by the Government on the ostensible plea that the resources of the country should be fully utilised for the public benefit? In such cases there would be no incentive to private enterprise if the Government were to resume everything itself.

If the position is that the Crown is the absolute proprietor of the soil, and the tenants drive their interest from or are dependent upon the Crown for their interest in the land, they have no cause for complaint and are not entitled to complain if the Crown parts with a part of its interest in favour of a third party. My Association thinks it has been able to establish further that the landlords had proprietorship in the soil before the British conquest. If that is so, the tenants had already a limited interest subordinate to that of the zamindars and they can have no cause for complaint if the Crown has confirmed the proprietorship of the zamindars or conferred on them other powers and rights which the tenants did not possess themselves. They can only complain if some of their rights have been taken away by the Permanent Settlement. But those Regulations are silent about their rights and their rights were enquired into about that time and found to be precarious by so distinguished an authority as Sir John Shore.

As regards the resources of the country, what is the standard by which this should be judged? The East India Company since assumption of the Dewani had tried various means to realise rents; if had tried to realise from tenants, and employed farmers of rents; all attempts had miserably failed. They perceived the necessity of making one person responsible for the rent as they had failed to realise rents directly from tenants. When all attempts had failed and when the Government was about to be bankrupt they entered into a settlement with the zamindars which was made permanent and saved the Government from bankruptcy. The assessment was made with an eye to improvements which might be made in future; at that time it was the heaviest that could be made. Can the Government which derived so much benefit from the measure now turn round and say that the resources of the country have been crippled?

Q. 6. My Association has already pointed out that there was considerable extension of cultivation on account of the Permanent Settlement (Robinson's Land Revenue, page 29). Enquiries were instituted by the Government in 1802 to discover to what extent the cultivation has increased since the commencement of the Permanent Settlement. The increase in Dacca for a period of ten years was estimated at 6¼ per cent.; the increase, it must be remembered, had occurred during a period of prosperity. It must be remembered also that during this period every kind of pressure was brought to bear on the zamindars to realise the heavy revenue assessed and that they could not act as freely as they wished. Colebrooke writing in 1808 protested again grasping at the highest revenue and declared that "the reviving prosperity of the country, its increased wealth and rapid improvements are unquestionably due to the Permanent Settlement". Mr. Colebrooke served in India for over 40 years and had known Bengal before the Permanent Settlement and after it. There were thoughtful observers like Bishop Heber who wrote in 1826 that "in Bengal where independent of its exuberant fertility there is a Permanent Settlement, famine is unknown".

By the Permanent Settlement only one-eleventh of the rents collected from the tenants was allowed as income of the landlords. Now it is a proposition well-known to everybody that it is not possible to collect the entire rents due from the tenants in one particular year. Collection from tenants never exceeds 80 per cent. of the total and there were also the collection charges to be considered. The landlords had to pay to the Government about 91 per cent. of the total rental to be collected from the tenants. If therefore the landlords wanted to keep their zamindari intact they would have to strive their utmost to realise rents from the tenants. The records of the period show that the law of distraint promulgated by the Government for speedy realisation of rent had little effect. "It is with extreme concern," wrote the Collector of Dacca in 1795, "that I am obliged to send so long a statement (for sales) as I am perfectly confident that the arrear has not proceeded from any mismanagement of zamindars, but the litigation of their under-talukdars who filed suit in Dewani Court to evade the payment of revenue." Handicapped as the zamindars were in this way their only salvation lay in the extension of cultivation. It was therefore natural that they would try to extend the cultivation either by settling new tenants or by bringing lands themselves under cultivation. The zamindars were the only intelligentsia of the province and they must have perceived that unless other sources of profit were resorted to, they would not be able to keep their zamindari from sale.

That there was an extension of cultivation after the Permanent Settlement admits of no doubt. The question is by whom was this made. The Collector of Midnapore in his letter to the Board of

Revenue, dated 12th February, 1802, observes: "Before this period 1799, complaints of inefficiency of the Regulations were very general amongst the zamindars or proprietors of large estates and it required little discernment to see that they had not the same powers over their tenants which Government exercised over them. It was notorious that many of them had large arrears of rent due to them which they are utterly unable to recover; while Government was selling their lands for arrears of assessment. Farmers and intermediate tenants were till lately able to withhold their rents with impunity and to set the authority of their landlords at defiance" (5th Report).

The Select Committee in its report says, "The Government was of opinion that the fear of losing their estates which were liable to sale to liquidate the balance of revenue, would operate more powerfully with the zamindars than any considerations of personal disgrace and they deemed it essential to strengthen rather than adopt any measure which might reduce the powers of the zamindars over their under-tenancy, who, it appeared, had under the general protection afforded by the Courts of Justice entered into combinations; which enable them to embrace the landholders in a very injurious manner by withholding their just dues and compelling them to have recourse to a tedious and expensive process to enforce claims which ought not to have admitted of dispute" (5th Report). If this was the feeling which prevailed at the time between the landlords and the tenants is it probable that the landlords would let out the waste lands, which according to the estimates of Lord Cornwallis were one-third, in the estimation of others one-half and in the estimation of some others two-thirds of the lands capable of cultivation, to those tenants who were so inimically disposed towards them? The real state of things seems to be that the landlords cleared the jungles and brought the waste lands into cultivation mostly by their own servants and labourers until good feeling was restored between the landlords and tenants when some portion of those lands or other uncultivated lands were gradually let out to tenants or the servants of the landlords. This must have been their principal source from which they paid their revenue so long as the feeling between them and their tenants remained strained.

It is impossible to state at the present day to what extent was the large increase in area brought under cultivation due to increase in population or to initiative and pecuniary or other assistance of the zamindars. But this is certain that no part of the increase in area was due to the initiative or enterprise of tenants. The mass of the people were wholly illiterate and lacked initiative and unless induced to work by some intelligent and controlling hand they would not be able to bring the lands under cultivation. The country was at that time unsettled and though the zamindars had recently been relieved of police

duties, still it was they who afforded protection to the tenants against the encroachment of wrong-doers and robbers, etc. No enterprise could have thrived in those days without adequate protection from the zamindars and it is notorious that the tenants lacked the initiative of enterprise. The waste lands must have therefore been brought under cultivation under the initiative, guidance and expense of landlords though it may be that the actual manual labour was performed by the servants or labourers. This would account for the origin of the proprietor's private lands—the area of which at one time was very large but gradually when the population increased portions of it were let out to tenants with the result that the area of it now-a-days is small.

The zamindars have greatly extended cultivation by bringing large areas of waste lands under tillage, planting colonies of peasants by means of concessions, pecuniary help, draining marshes, clearing jungles and digging tanks (Seton-Karr, 45-49). The jungles were cleared mainly by granting jungleburi leases which system prevailed from before the time of the Permanent Settlement. According to Mr. Seton-Karr, the main object of the zamindars, for years after 1793, was to induct raiyats into waste and culturable lands, as population increased and as more space and new villages were required to meet the wants of a growing community. In such instances, the rent demanded was very small, or nothing at first. A zamindar drained a huge swamp by cutting a channel for the overflowing of its water into the nearest river. He excavated by paid labour an enormous reservoir which secured a supply of water for dozen villages. He constructed ghats and landing places of stone or brick in the banks of rivers or tanks. He dedicated temples and built school houses (page 46).

A zamindar who had annexed and cultivated a part of jungle land was granted exemption from assessment in respect of such land if the zamindar could prove that he reclaimed the land on the presumption of freedom from assessment. (Revenue Despatches from Bengal, dated 5th April, 1837, paragraph 9.)

Q. 7. My Association at the outset would point out that after the Permanent Settlement of 1793 there were other areas in Bengal which were permanently settled long afterwards. Therefore the rent roll of the permanently settled area at the time of the Permanent Settlement in 1793 is no criterion for comparison. The valuation made by the Cess Revaluation Officers is not correct; it is a notorious fact that the Cess Revaluation Officers increase the valuation arbitrarily every time the Cess revaluation takes place.

It is not possible at the present day to determine how much of the increase of the rent roll is due to what cause or the exact proportion of

each. But my Association has already pointed out in answer to question 6 that the increase was mainly due to the efforts of the landlords. My Association has already pointed out that reclamation of waste lands and increase in cultivation must have been made under the initiative and protection of the landlords. It may be that on account of the increase of population more and more waste lands have been brought under cultivation; but the initial expense of clearing jungles and bringing them under cultivation must have been borne by the landlords as described before. The landlords have an abiding interest in the soil and it is their interest to see that they make some profit out of it.

As regards enhancement of rents my Association does not think that the increase in the rent roll was due, in a great measure, to the enhancement of rent. If we refer to Sir William Hunter's Statistical Accounts of Bengal published in 1875 and subsequent year we find that in Midnapore the proportion of rent to produce is 12 per cent. Mr. R. C. Dutt, C.I.E., I.C.S., who during a period of over 25 years was employed as a Revenue Officer in different districts of Bengal and had occasions to make enquiries regarding the proportion of rent to produce found as a matter of fact that the rent generally realised by the Bengal zamindars was about one-sixth of the gross produce in some districts and was even less in others (*vide* his Fourth Letter to Lord Curzon, dated 25th April 1900). In the Bengal Government Report which formed an enclosure to Lord Curzon's Land Resolution of 1902 it was reported that the Bengal zamindars obtained *about* 11 *per cent.* of the gross produce as rent. In the statistics supplied to us from the office of the Land Revenue Commission in Statement II it is said that the average value of all crops per acre is Rs. 49 according to settlement reports and Rs. 44-5 according to the agricultural statistics of India; and the incidence of raiyati rent per acre as stated in Statement IX regarding permanently settled area is Rs. 3 only and in Government khas mahal Rs. 4-11, i.e., *about* 7 *per cent.* of the gross produce in permanently settled areas. It shows that increase of rent roll is not due to the enhancement of rent inasmuch as there has not been any increase in the productive power of the land; and also that the proportion of rent to gross produce is decreasing.

My Association may mention here that the cost of cultivation has increased in recent years as will appear from the estimate collected at the office of the Land Revenue Commission, Bengal. So far as western Bengal is concerned our experience is that in most cases tenants employ Santal labourers for cultivation of lands and for all works regarding sowing, reaping and threshing of paddy and in growing other crops. These entail larger expenses and the margin of profit left to the tenants is becoming smaller in consequence.

Q. 8. In our replies to previous questions, my Association has dealt with this point at length. The rents realised by the landlords are very moderate not exceeding the amount which in old Hindu times the tenants used to pay to the owner of the land. My Association's answer to this question is therefore that the zamindars have fulfilled the expectations required by them at the time of the Permanent Settlement. My Association may mention here that the relation between the landlords and the tenants in western Bengal was all along very cordial and resembled the relation of father and son. The tenants used to look up to the landlord in times of distress and scarcity and landlords also extended to them their fatherly protection. Instances have not been rare in which the tenants gave up their lives for the benefit of their landlords and the landlords in return gave doles of rice to the tenants in times of scarcity and spent money and protected them when necessary. Tenants were invited to the landlords' houses and entertained on every festive occasion. Elsewhere my Association has enumerated some of the beneficial and charitable works undertaken by the landlords for the good of tenants.

"In India," writes Mr. J. S. Mill, "things are so far better than in Ireland that the owner of land is in the habit of making advances to the cultivators, if they cannot cultivate without them."

In view of the answer my Association has given above, the further question as to what extent absenteeism and want of close touch between the landlords and tenants were responsible for the failure to carry out the duties entrusted to the landlords, does not arise. My Association may be permitted to point out here that the landlords who do not own large estates will reside in the village and even some of them collect rents from tenants themselves. It is only the big landlords who possess lands in several distant areas, find it not practicable to remain in close touch with the tenants.

Q. 9. My Association has already answered the first part of this question.

The Permanent Settlement imposed on the zamindars some duties which have been enumerated in our reply to question 1. The zamindars have as a general rule carried out the duties imposed upon them.

When the Permanent Settlement was concluded almost all the zamindars resided within the locality or near about the locality which was settled with them. They had close touch with the tenants. In case of big zamindaris which consist of villages lying far apart or in several districts it was not possible that the zamindar would remain present in all the areas which appertained to his zamindari. Many landlords who own small estates still reside in the village and collect

rents themselves. It is true that in recent times some landlords have begun to reside in towns. A variety of causes and circumstances have contributed to this state of things in western Bengal:—(1) The villages are mostly insanitary and the best medical help is available in towns; (2) Higher education of their children necessitates migration to towns; (3) A hankering after obtaining titles induces the landlords to stay in towns where they may see the Magistrate of the district very often. A landlord who did not do this was even looked upon with disfavour by the authorities till some time ago. But even those who stay in towns cannot be said to be out of touch with the tenants; they visit their estates occasionally. They have got a head office and the branch offices in the villages or blocks of villages appertaining to their estates. My Association may be permitted to point out that the same thing will happen or worse will happen if the tenants come directly under the Crown. They will be placed under a Manager who would be in charge of a certain area. The Manager and his subordinates have no permanent interest in the land and they are not likely to take the same interest in the tenants as the landlords do. The representatives of the Crown live far away from the area where tenants cultivate and they are not better than absentee landlords. The Manager and his subordinates (at least, a good many of them) have an idea that they would be promoted if they can show increase of revenue. Hence private landlords, even if they are absentees for a great part of the year, are better than these Managers, so far as the tenants are concerned. It may be that the Managers are better qualified than many of the present landlords, but at the same time it must be remembered that these landlords grow up in a tradition of management of their estates and are specially trained therefor. Moreover, they have often to come in touch with the tenants either in their zamindaris or in their head offices where the tenants often approach them for many reasons. Collectors and the Members of the Board of Revenue have not the same opportunity to come in close contact with the tenants and know their grievances as the private landlords have.

It is only in recent years when the economic depression set in that the landlords found it very difficult to improve their estates as they used to do previously. Nowadays the tenants cannot pay them rent and as my Association has pointed out before, it is only after 7 years that landlord is able to realise rents. In the meanwhile, he had to pay revenue 28 times, evidently out of his own pocket. The landlord nowadays find it difficult to make his two ends meet. He has to borrow money from creditors in order not only to defray his expenses but also to keep up his social prestige and style. Thus, he cannot lay out any money in the improvement of his estate or for the benefit of the tenants.

He cannot, therefore, be said to be not discharging his duties or fulfilling his obligations.

Q. 10. Yes, in my Association's opinion the Permanent Settlement was in the interest of the country economically. Mr. R. C. Dutta wrote on March 12, 1902, "Bengal was permanently settled in 1793, and since that date famines are rare in Bengal, and there has been no famine within the permanently settled tracts causing any loss of life. The agricultural people are generally prosperous and resourceful and with some help from Government they have tided over the worst calamities without the most lamentable result of famines—a ghastly tale of death. The very reverse of this has been the case in every other province of India not permanently settled. The agricultural people are so resourceless and impoverished, that the most liberal relief measures have failed to save lives; and the uniform story of deaths by the million has been told in every famine year. These are facts that tell their own tale. Within a period of over 100 years there has been no famine in permanently settled Bengal, causing loss of lives; while loss of life has been lamentable and frequent in every other province of India in spite of all relief operations" (First Reply to Lord Curzon's Land Resolution). Again he wrote in 1902:—"In 1876 a cyclone and storm-wave destroyed the crops of many districts in eastern Bengal, and I was sent as a Subdivisional Officer to an island which had suffered the most. I knew that the people had no food, and I was prepared to open relief operation when needed, without acting in haste. What was my surprise when I found that the people needed no relief and asked for none; the cultivators had paid rents for years before and invested all their savings in silver jewellery for their women, and in the valuable articles. In the year of disaster they sold their silver things, bought ship-loads of imported rice and helped themselves till the next harvest. A small number of orphans and helpless old men who had lost their relations by cyclone were relieved; the mass of the people supported themselves through the crisis. What was this silver jewellery of the cultivators but a famine relief fund in the hands of the people?" Hence the Permanent Settlement was in the economic interest of the country.

The proprietorship conferred on the zamindars has also much to do with the introduction into lower Bengal, nearly alone in the Indian provinces, of new and vast agricultural industries (Maine's Village Communities, page 163).

The zamindar is on the spot, he is not changeable like the rapidly shifted Government tahsildar, and he enjoys the entire benefit of the increased production; hence he has every inducement to increase the cultivation. The zamindar alone can introduce costly agricultural

improvements and machinery which are beyond the means of petty individual cultivators. Hence agriculture on a large scale is possible only in the permanently settled parts of India. By the agency of the zamindar a new sanitary measure, a new method of cultivation or a new kind of crop can be quickly introduced amongst the peasants. "Scarcity is met, relief works are set on foot and supplies are transported in a famine with greater facilities where there are large zamindaris than in provinces where the settlement has been made with the heads of village communities or with each raiyat direct." (Seton-Karr, page 70). In short the zamindar holds all the threads of village life in hand and his power for good is great. When there is a great resident zamindar, crimes are hardly known (Sir Jadunath Sarkar's Econimics of British India, pages 109-110).

Permanent Settlement avoids the expense and harassment to tenants which attend every periodical renewal of settlement in other parts of India. It has saved the land revenue of this State from annual fluctuation and uncertainty of collection.

The Permanent Settlement co-operating with the law of equal inheritance of the sons has created a large middle-class which is the cause of the social, literary and educational advancement of Bengal.

Sir Thomas Munro stated before the House of Commons that there was no difference between the zamindari settlement of Bengal and the raiyatwari settlement in Madras as regards permanency. The Marquis of Wellesley, once Governor-General of India, was so convinced of the benefits of the Permanent Settlement that he pledged the word of the British Government in 1803 and 1805 by Legislative Act and Proclamations to extend it to modern India. His successor Lord Minto recorded his opinion that "to ameliorate generally the conditions of natives, it is our firm conviction that no arrangement or measure will tend so speedily and effectually to the accomplishment of those important objects as the establishment of Permanent Settlement." Lord Minto's successor, the Marquis of Hastings, once more urged in 1820 that "it is our unanimous opinion that the system of Permanent Settlement of the land revenue either on the principle of fixed jama or of an assessment determinable by fixed or invariable rate ought to be extended to the ceded and conquered provinces." Lord Canning urged once again the extension of Permanent Settlement to all provinces of India for the prevention of such famine as he had witnessed in Northern India in 1860. Sir Charles Wood, the then Secretary of State for India (afterwards Lord Halifax), accepted the proposal and described it as "a measure dictated by sound policy and calculated to accelerate the development of resources of India and to ensure in the highest degree the welfare and contentment of all classes of Her Majesty's subjects in that country." Sir John Lawrence (afterwards Lord Lawrence) wrote in

the same year, "I recommend a perpetual settlement, because I am persuaded that however much the country has of late years improved *its* resources will be *still* more rapidly developed by the limitation of the Government demand." And Sir Stafford Northecote, Secretary of State for India, approved of the proposal in 1867 in consideration of the great importance of connecting the interest of the proprietors of the land with the stability of the British Government. Such were the opinions of three generations of distinguished administrators and able statesmen in India—of men who built up the British Empire, had opportunity to see and closely observe the effect of Permanent Settlement in its working upon the people and valued the contentment and happiness of the people. But unfortunately the desire to promote the welfare of the people did not ultimately shape the action of the Government. The desire to conciliate the people lost its force when the Empire became stable and the desire of continuously add to the land revenue prevailed. All the landlords who have much at stake look at the British Rule in India not only as a just and enlightened system of administration but as a government with which their own interests are intimately associated, as a government whose permanence means the well-being of the people. In the dark days of the Mutiny of 1857, there was no disaffection in Bengal, and in the words of Mr. Seton-Karr, "The Sepoys took to the villages and the jungles and then they literally melted away before the impassive demeanour, the want of sympathy and the silent loyalty of the zamindars. Through the loyalty of the zamindars has been confirmed the loyalty of the entire people towards the ruling power (Mr. R. C. Dutt's Fourth Letter to Lord Curzon and the First Reply to Lord Curzon's Resolution). But memory is proverbially short. All the services of landlords were forgotten in the desire to screw up the revenue demand and latterly the Indian Government had tried to persuade themselves and persuade others that the Permanent Settlement is a useless and a hurtful institution.

The limitation of the State demand has fostered agricultural enterprise, extended cultivation and led to the accumulation of some capital in the hands of private proprietors which is expended in fostering trades and industries, in supporting schools, dispensaries, charitable institutions, in excavating tanks and wells, in constructing bridges and roads and lastly in supporting poorer classes in season of distress and famine. Apart from the instance cited before, my Association may cite here the remarkable instance of Maharaja of Darbhanga who altogether expended a hundred thousand pounds sterling in relief works and in remissions of rent during the famine in 1897 and the earthquake of 1933; and that of late Maharaja Manindra Chandra Nandi who spent about four crores of rupees in the relief of the poor and the distressed. The modest capital accumulated is not retained in the hands

of a few exclusive Houses of Bengal. It is fairly distributed among the intelligent, enterprising and industrious men of all districts and of all classes. It encourages profession, education and culture and it promotes, generally, the well-being of all classes and thereby indirectly helps the revenue of the country.

Before the Permanent Settlement was made a question arose as to with whom the Settlement was to be concluded. Sir John Shore who was entrusted with the task pointed out that there were 3 methods by which settlement could be made. By the first method the Company would collect rents direct from the cultivators; by the second method the estates would be let out temporarily to any persons selected by the Company; the third method would admit the proprietary right of the zamindar with whom the settlement would be made. The first method Shore rejected on the grounds that it presupposed a degree of knowledge, experience and applications in the Collectors which is rarely found and attained; that Government could not secure its revenues by specific engagements; *that this method of khas collections had invariably proved a failure in the past*: it would further be impossible for the Board of Revenue to exercise any adequate control. The second method, the ijara or farming method, is dismissed very briefly; a temporary farmer would never look to the future improvement of the estate.' Such a method was unanimously condemned and so he did not detail inconveniences met with zamindars. He maintained that they would act as officials for securing the peace and prevention of oppression —duties which had been incumbent in the past; Shore recited what he called the evils of zamindari control at length and maintained that the evils were largely due to their uncertain position and the variation of their treatment in the past. Owing to the complications in the administration in Bengal the Company would not undertake the task of collecting the rents of the cultivators by its own officers and the zamindari system was the only alternative (Fifth Report, paragraphs 154 to 198). Previous to this my Association had occasion to point out that the Government was almost bankrupt at the time and the Permanent Settlement saved the Government from total collapse. The frantic efforts of Warren Hastings to collect revenue had resulted in the imprisonment of defaulting zamindars, the farmers whom he employed to collect rents, e.g., Debi Singh had become notorious in history by their unheard-of oppression on cultivators (*see* Burke's Impeachment of Warren Hastings). It was for this reason and other reasons that Sir John Shore admitted that the method of khas collection had invariably proved a failure in the past. Had the Settlement been made with the raiyats, thin and poverty-stricken as they were, the Company would not have been able to realise sufficient rents from them and in case of oppression which was inevitable they would have

either *died* or *fled* from the country or there would have been a revolt. The Permanent Settlement was therefore the best solution of all the problems that presented themselves at that time. Lord Cornwallis therefore in a Minute, dated 18th September 1789, said—"Although however I am not only of opinion that the zamindars have the best right, but from being persuaded that nothing could be so ruinous to the public interest as that the land should be retained as the property of the Government I am also convinced that failing the claim of right of the zamindars, it would be necessary for the public good to grant a right of property in the soil to them or to persons of other descriptions. I think it unnecessary to enter into any discussion of the grounds upon which their right appears to be founded. It is the most effectual mode for promoting the general improvement of the country which I look upon as the important object for our present consideration. I may safely assert that one-third of the Company's territory in Hindusthan is now a jungle inhabited only by the wild beasts. Will a ten years' lease induce any proprietor to clear away the jungle and encourage the raiyats to come and cultivate his lands, when at the end of that lease he must either submit to be taxed *ad libitum* for the newly cultivated land or lose all hopes of deriving any benefit of his labour for which perhaps by that time he will hardly be repaid." He was therefore of opinion that in order to give value to these rights they must be made permanent (Fifth Report, Vol. I, p. 591).

The above account would show that the Permanent Settlement was made for the benefit of the country and the Company, the landlords and the tenants were benefited by it. Had there not been this settlement it would not have been possible to carry on administration and everything would have been in chaos and confusion, thus the Company was benefited. The only reproach which is made against it is that sufficient safeguard was not made regarding tenants' interest. But my Association has already pointed out that the Government reserved to itself the right of enacting whatever legislation it thought fit to undertake for the benefit of the tenants. Sir John Shore had pointed out that the exact rights of the tenants were not then known. It was therefore that the rights of tenants which were then known to be regulated by customs were not enumerated in the Regulations. But this does not prove that the Permanent Settlement itself was not for the benefit of the tenants. As a matter of fact they were saved from the oppressions of the Company's servants and farmers of rent.

Mr. Seton-Karr who was formerly a Puisne Judge of the Calcutta High Court and sometime Secretary to the Government of India wrote in 1890, "The author of this memoir himself had the advantage of hearing from the mouth of a civil servant (the late Mr. James Pattle, senior member of the Board of Revenue for many years up to his death

in September 1845) who began his career in 1793 and ended it in 1845 after more than 50 years of continuous service in the Bengal establishment, the opinion which was held by some very competent Judges of the paramount necessity of a permanent assessment at the time of the famous proclamation. "It was," he said, "such as to leave the Governor-General hardly any opinion at all. There was difficulty in some districts in getting well qualified persons to engage for the realisation of the public revenue."

The same author goes on, "Though several of the solid fruits of the settlement in perpetuity might have been equally attained by a settlement for a long period, it may be argued that periodical assessments might in Bengal have been productive of other evils. Bengal is more than any other province in India the scene of that evasion and subterfuge which are the proverbial resources of the weak. In other provinces as the period of revision draws nigh, a certain amount of distrust and disquietude arises in the minds of the population. Wealth is concealed; lands are purposely thrown out of cultivation; and many unfair means are resorted to in order to avoid an increase of rental. There can be no doubt that all these disturbing agencies would have been set actively at work in Bengal. It is not moreover easy to overestimate the advantage of the wealthy and privileged class who have everything to lose and nothing to gain by revolution. This is clearly seen and acknowledged during the time of the Sepoy Mutiny. There were few large military cantonments in the lower provinces in that eventual year. Even when isolated detachments of sepoys mutinied as they did at Dacca, Chittagong and Birbhum, they met no countenance from the zamindars...........In times of famine and scarcity the co-operation of wealthy zamindars has been invoked by the Government and in many instances ungrudgingly afforded—and in a country where social distinctions and inequalities still retained their attractions for the masses the maintenance of the large zamindaris is quite in accordance with native feeling and it has political advantages which compensate or at any rate balance its defects." (Cornwallis, pages 68 to 70.)

The revenue system which the Permanent Settlement has led to has been for the benefit of the province. Tenancy legislations have been passed from time to time curtailing the powers of the landlords and safeguarding the interests of the tenants. My Association has already pointed out that the Permanent Settlement coupled with the tenancy legislation has resulted in producing a tenancy who are more resourceful, more contented than the tenantry of other provinces. The Permanent Settlement has not resulted in benefiting the landlords at the expense of tenants. The statistics collected by the Land Revenue Commission shows that in Bengal the average value of all crops per acre is Rs. 49, whereas the rent payable by the raiyats in permanently

settled estates is Rs. 3 per acre. If we take the case of Bombay, there the average value of crops per acre is Rs. 25-9, whereas the incidence of revenue per acre is Re. 1-8. Therefore the incidence per acre of the amount payable by the tenants of the permanently settled areas in Bengal is the same as that paid by the tenants of Bombay. Whereas there is no check on enhancements provided in the Revenue Law of Bombay, the Bengal Tenancy Act has not only stopped enhancement for 10 years; but it also provides other checks on enhancements. My Association has already pointed out that at the time of Permanent Settlement it was not possible to define exactly the rights of the raiyats and it was also not possible to provide checks for enhancements of rents as the assessment was fixed at ten-elevenths of the rental. This was done in 1850 when the landlords had increased their rent rolls and had obtained a sufficient margin of profit. There was therefore no advantage to the landlords at the expense of the tenants.

Without the Permanent Settlement the East India Company could not have carried on their administration. Everything would have been in chaos and confusion and very likely the history would have been wholly different. No stable Government could have been formed, the revenue would have greatly fluctuated and the rest of India might not have been conquered by the British. At least it would have taken about a century to form a stable Government; hence the people have been greatly benefited by it.

Q. 11. (1) It is not correct to say that the Permanent Settlement has led to the appropriation of nearly 80 per cent. of the income from land to the zamindars. Nowadays the khas land of the zamindars mainly consist of village pathways, drains, and waste lands which do not yield any crops. Taking therefore the incidence of revenue per cultivated acre in a permanently settled area, namely annas 15 only, if we compare this with the rent derivable from the tenants namely Rs. 3 per acre, the proportion of the profits left to the zamindar comes to about 70 per cent. But at the same time it must be remembered that some areas often lie waste on account of death without heirs of tenants and on account of the fact that the tenants abandon, desert or surrender their jotes and go elsewhere; besides this no landlord can ever collect rents in excess of 60 per cent. of the total rental and in these days of economic depression the collection never exceeds 50 per cent. of the total rental. Add to this the fact that the landlord has to sue for arrears of rent and pay court-fees, etc., out of his pocket in expectation of realisation. It is a notorious fact that the landlords have to spend much besides court-fees which not being legally recoverable are not realised from tenants. My Association has already pointed out that landlords generally sue for 4 years' rents and when they succeed in obtaining decrees, they put them into execution when all available

steps for amicable realisation of decretal amounts fail. The landlords after putting the decrees into execution have often to purchase the holding themselves. If the landlords are not of the cultivating class, these holdings often lie fallow and so much arrears of rents of the landlords go unrealised. In this way the condition of the landlords nowadays has greatly deteriorated and more and more estates are being continually put up to sale. The landlords however borrow money and anyhow try to avoid sale. In this way the indebtedness of the landlords is continually increasing. In the district of Midnapore, barring some estates, the revenue demand is generally 50 per cent. of the rent roll and the landlords therefore find it very difficult to pay revenue punctually. Their income is gradually decreasing in consequence of the fact that more and more lands are continually lying waste. There has been a continual migration of tenants from the district of Midnapore to the Sundarbans and to the mill areas lying on the banks of the Ganges, where they earn more than what they did in their native places. The capacity for work of the Midnapore tenants seems to have decreased; they cannot nowadays work without the help of Sonthal labourers; hence the cost of production also has greatly increased and the margin of profit is much less than what is used to be formerly. The villages are insanitary and the ravages of Malaria have decreased the working capacity to an alarming extent. In almost every village, owing to the ravages of Malaria the number of able-bodied tenants has greatly diminished and the consequence is that many of the lands are lying fallow.

The landlords may appropriate the greater portion of the rent derived from tenants but they spend the greater portion of it in charitable and beneficent activities and the rest in maintaining their families and dependents. The condition of the present landlords is far from satisfactory as will appear from the account detailed above. This shows that they have not been able to make great profits.

(2) It is alleged that Permanent Settlement has led to subinfeudation of tenancy, but subinfeudation is also observed in Government khas mahals. The subinfeudation which has taken place is with regard to tenureholders. According to the Bengal Tenancy Act, raiyats can only let out their holdings to under-raiyats and there can be no further subinfeudation by the under-raiyats. There is no limit to subinfeudation in that Act between the zamindars and the raiyats. Hence there has been subinfeudation of intermediate interests. But at the same time it must be noted that when a zamindar lets out his land to a tenureholder, he carves out an interest out of his own interests and parts with a portion of his own profit. He does not or cannot interfere with the rights of raiyats. Where a zamindar parts with some of his interest it must be presumed that there has been some cogent reason behind it,

because a man does not part with a portion of his profit for nothing. The rent derivable from a raiyat is thus shared between a zamindar and the intermediate tenureholder. Subinfeudation is not always bad. It is said that the Raja of Burdwan escaped from the provisions of the stringent sale laws by the invention of patni system.

Sir George Campbell says, "All the under-tenures in Bengal have not been created since the Permanent Settlement. Dependant taluks, gantis, howlas and other fixed and transferable under-tenures existed before the Settlement. Their permanent character was practically recognised at the time of the settlement and has at any rate since been confirmed by lapse of time."

"The general provisions of the Regulations of 1793 were in favour of the tenants. The story of the Permanent Settlement was to give to all under-holders down to the raiyats the same security of tenures as against the zamindars which the zamindars had against the Government. Sub-holders of taluk, and other divisions under the zamindars were recognised and protected in their holdings subject to the payment of their established dues." (Bengal Administration Report, page 79. *See* also report of Messrs. Anderson, Croft and Bogle printed in Harington's Analysis, Vol. II, at pages 62, 63 and 64.) The Regulations themselves will show that there were these tenures from before the time of the Permanent Settlement (sections 50 and 51 of Regulation VIII of 1793). There were various kinds of taluks before the time of the Permanent Settlement—(1) taluks held under grants from zamindars which did not expressly transfer the property in the soil but operated simply as leases on terms of payment of rent and other conditions, (2) taluks for which the revenue was paid through zamindars and the title deeds in respect of which contained in stipulation that it should be so paid (section 6 of Regulation VIII of 1793), (3) junglebari taluks held under permanent leases on conditions of clearance of jungle lands and payment of fixed amounts of revenue after fixed rent-free period, (4) taluks which might have been recorded as independent but for which applications to the Collector were not made within one year of passing of Regulation I of 1801 (section 24, Regulation I of 1804). Regulation VIII of 1793 broadly divides dependent taluks existing at the date of the Permanent Settlement into 2 classes, those of which the rents are capable of being enhanced and those of which the rents were not enhancible. If there was a grant to hold in perpetuity at fixed rents, and payments had been made at fixed rents for more than 12 years before the Permanent Settlement neither the grantor nor his heirs nor even the Government could enhance the rents, otherwise increased assessment could be demanded. The presumption generally was in favour of the talukdars as soon as it was proved that the taluk had existed from before the Decennial Settlement.

The above account will show that there were various kinds of tenures existing from before the Permanent Settlement. It is therefore not correct to say that Permanent Settlement has led to subinfeudation of tenancy. The number of tenures at the present day is 2·7 millions. The system of subinfeudation has absorbed so many tenureholders or much more. If the system of subinfeudation had not been in vogue so many persons besides a huge number of their employees would have been thrown out of employment and would have swelled the rank of the unemployed. The Permanent Settlement has therefore provided subsistence to so many persons, their shares and dependents. That was an old immemorial custom of the country and we have already shown that subinfeudation of the Permanent Settlement has injured neither the Government nor the raiyats nor the cultivators of the soil.

(3) The third ground of attack is that it has led to the enhancement of raiyati rent. Before proceeding to reply to this ground of attack my Association would point out that even if there had been no Permanent Settlement, i.e., even if the zamindars had been swept away and settlement made directly with the cultivators of the soil there can be no doubt that the Government would have enhanced the rents of the cultivators to an alarming degree. It was the custom in the last days of the Muhammedan rule to fix the State demand at a very high figure and then to realise as much, as a nominal demand, as was possible from year to year. The mistake made by early British Administrators was to adhere to this high nominal demand and then to try and realise the whole of it. Some British Administrators saw this mistake and one Collector, Mr. Dubbton, wrote that the settlement of 1802 made in Northern India pressed beyond a reasonable demand, and also complained that the severe rates of Nawab's government were stereotyped by the British Rulers without the same elasticity in realising (Baden-Powell's Land System of British India, Vol. II, page 14).

In Bombay, "Every effort was made lawful and unlawful to get the utmost out of the wretched peasantry, who were subjected to torture, in some instances cruel and revolting beyond description; they could not or would not yield to what was demanded. Numbers abandoned their homes and fled into neighbouring Native States; large tracts of lands were thrown out of cultivation and in some districts no more than a third of cultured area remained in occupation" (Administration Report for 1892-93, page 76). The first regular settlement was made from 1836 and was completed or nearly completed by 1872 and it showed an increase of 32 per cent. exclusive of Poona, etc., then under a settlement (Administration Report for 1872-73, page 49). A second regular settlement commenced from 1866 and was going on up to 1898-99. It showed an increase of 30 per cent. The third regular

settlement commenced in 1896 and it showed an increase of about 30 per cent.

My Association need not multiply instances. That there has been some enhancement of raiyati rents nobody denies. But in spite of enhancement the average rental at the present day in permanently settled estates is much lower than the average rental of the khas mahal and of the temporarily settled estates. The rent in khas mahal area exceeds more than one and a half times the rent of the permanently settled area.

My Association has already pointed out in answer to question 7 that enhancement of rents had no appreciable effect in the increase of the rent roll.

(4) This fourth ground of attack is more sentimental than real. The Permanent Settlement did not create a system of overlordship. The system of overlordship, if you choose to call it so, was already there from a very very long time. A far back as my Association can obtain any evidence, my Association always finds the province of Bengal parcelled out amongst the zamindars who were virtually rulers within their respective estates. When the Afghans conquered Bengal they carved out estates here and there for military commanders and jagirdars but left Hindu zamindars generally in possession of estates which they had inherited from their fathers. Muhammadan Kazis and Kotwals performed judicial and police works in towns but within their own estates the Hindu zamindars were left with their old powers. They levied rent, preserved peace and order, settled disputes and led large armies. One of these Hindu zamindars (Danuj Rai) helped the Afgan Emperor of Delhi about 1288 A.D. with his own troops against an insurgent chief, and when Bengal became independent of Delhi in the following century one of the Hindu zamindars (Raja Ganes) had sufficient influence and military power to make himself king of Bengal and to leave the throne to his son. When Bengal was conquered by Akbar in the 16th century, the Hindu zamindars continued to hold the same position and to exercise the same political and military power as they had done under the Afghans. The power and influence wielded by the Bara Bhuiyas or the 12 great zamindars of Bengal were such as to cause anxiety in the mind of Akbar and led him to send his ablest general Man Singh to coerce them into submission.

When the British became the virtual rulers of Bengal in the latter half of the 18th century they tried to rob the zamindars of Bengal of their influence and power. Warren Hastings deprived them of their political and police powers; he imprisoned defaulting zamindars, sold their estates to outsiders for arrears or let them out on short leases. He scarcely acted with sufficient regard to the ancient tradition of the

province or to the position which the hereditary landlords had held for centuries amongst their people. When Lord Cornwallis became the Governor-General he wisely sought to secure to them the honoured place which they had held for centuries; with the true instincts of a nobleman he saw that it was not for the good of the people or for the rulers that the estates of the ancient houses should pass into other hands and with the true instinct of a statesman he endeavoured to give the zamindars of Bengal the motive and the opportunities to extend cultivation, to accumulate capital and to improve the country.

It was the zamindars who had shielded their under-tenants from the rapacity of the Company's officers. The relation between them and the tenants before the Permanent Settlement was cordial. It is therefore not correct to say that an overlordships was "created" by the Permanent Settlement which was harassing and oppressive to the cultivators of the soil. My Association has already pointed out before how it was the zamindars that suffered just after the Permanent Settlement owing to the combination amongst tenants. They tried to evade payment of rent on various pretexts and subterfuges.

Had not this zamindari interest interposed between the Government and the cultivators, the Government would have realised the rents directly from the tenants and all the tales of woe which my Association has pointed out before occurring in raiyatwari settlement tracts would have been repeated in Bengal. They would have been paying rent at this date one and half times in excess of what they are paying at present. Rent would have been punctually and rigorously realised from them and in case of failure the certificate procedure with all its rigour would have been applied. The zamindars treat them with leniency and allow them to pay rent at their pleasure. In Govenment estates, however, it is necessary to ensure an approximate revenue and such lenience or latitude cannot be given to tenants. Further, as my Association has observed before, the zamindars have an interest in the soil and they therefore value highly the cordial relation that should exist between the tenants and the landlords, but the same consideration does not weigh with the shifting tahsildars or managers of the Government estates. The latter do not look upon the tenants with the same sympathy or kindness; they consider that punctual and rigorous realisation of rent from tenants is likely to give them a lift in the near future.

My Association does not think that the zamindars harass or oppress their tenants and there has been no creation of bad overlordship by the Permanent Settlement.

Q. 12. My Association does not advocate the abolition of the Permanent Settlement.

The Editor of the "Calcutta Gazette," dated the 9th of May, 1793, wrote as follows:—

"To enter into a detail of advantages that will, in all probability, be deprived from the various articles of this proclamation by confirming the claims of all ranks of proprietors and abolishing many inferior duties, would lead into a very wide field which we could but imperfectly explore; but the great purpose of it, the permanent settlement of a land-tax we consider as involving so much political truth with practical benefit, that we cannot pass it over without endeavouring to illustrate what it is impossible not to admire.

"It has frequently been a subject of controversy amongst philosophers and financiers, whether the taxation of lands should be fixed according to certain valuation, not afterwards to be altered, or formed on a scale which varies with each variation of the real rent of the land, and rises or falls with the improvement or declension of its cultivation. Government has on the present occasion adopted the former system; and we think, however specious the latter may appear, it is founded on a mistaken principle as it in argument supposes that considerable improvement will arise while in fact it at the same moment throws the strongest check upon every species of improvement and industry; namely that the Government which bears no part in the expense shall bear away a share of the profits of improvement.

"Under the former system of land-tax the revenue is rendered certain to the Government as well as to the individual and nothing is left to the arbitrary disposal of the one or the evasion or dishonesty of the other; at the same time the strongest inducement is held out to the proprietor to improve the value of his estates, for as that is improved, not only his general comfort and wealth is increasing but the very tax system is rendered more light by bearing a smaller proportion to the increased value and produce. Nor is Government excluded from sharing in these advantages though in a less immediate way for the immediate consequence of an increase of produce is an increase of the population of the country whose industry returns again to the fields or overflows into the manufactories which work upon their production".

"By these measures a permanent revenue is secured to Government, property to individuals, and a prospect of wealth and happiness is open to the natives co-extensive with the industry and capital they shall think fit to employ in the cultivation and improvement of their lands."

Mr. John Stuart Mill in his famous book on Political Economy (Book II, Chapter X, section I) writes:—

"A perpetuity is a stronger stimulus to improvement than a long lease, not only because the longest lease before coming to an end passes through all varieties of short leases down to no lease at all; but for

more fundamental reasons. It is very shallow even in pure economics to take no account of the influence of imagination, there is a virtue in "for ever" beyond the longest term of years; even if the term is long enough to include children, and all whom a person individually cares for, yet until he has reached that high degree of mental cultivation at which the public good (which also includes perpetuity) acquires a permanent ascendency over his feelings and desires, he will not exert himself with the same ardour to increase the value of an estate, his interest in which diminishes in value every year. Besides, while perpetual tenure is the general rule of a landed property as it is in all the countries of Europe, a tenure for a limited period however long is sure to be regarded as something or inferior consideration and dignity and inspires less of ardour to obtain it and of attachment to it when obtained."

Mr. Shore towards the conclusion of his Minute gives a summary of his proposals, "The leading principles upon which I shall ground my proposals for the ensuing settlement are two: the security of Government with respect to its revenues and the security and protection of its subjects. The former will be best established by concluding a Permanent Settlement with the zamindars or proprietors of soil, the land—their property—is the security of the Government. The second must be ensured by carrying into practice as far as possible an acknowledged maxim of taxation. The tax which individual is bound to pay ought to be certain and not arbitrary. The time of payment, the manner of payment, the quantity to be paid ought all to be clear and plain to the contributor and every other person. The settlement is then to be made for a period of 10 years certain, but with a *view to permanency.*"

To this Lord Cornwallis made the following comments:—

"Mr. Shore has most ably, and in my opinion most successfully in his Minute delivered in June last, argued in favour of the rights of the zamindars to the property of the soil. But if the value of the permanency be withdrawn from the settlement now in agitation, of what avail will the power of his arguments to be to the zamindars for whose rights he has contended? When the landlord of the soil himself the right owner of the land, is only to become a farmer for a lease of 10 years and if he is then to be exposed to the demand of a new rent which may perhaps be dictated by ignorance or rapacity what hopes there can be—I will not say an improvement but of preventive desolation".

"If the laws are enacted which secure to zamindars the fruits of industry and economy and at the same time leave them to experience the consequence of idleness and extravagance, they must either render themselves capable of transacting their own business or their necessities will oblige them to dispose of their lands to others who will cultivate and

improve them. This, I conceive, is the only effectual mode with this or any other Government could adopt to render the proprietors of land economical landlords and prudent trustees of the public interest" (Lord Cornwallis' Minutes, dated 18th September 1789 and 3rd February 1790).

Five years after the Permanent Settlement of Bengal, William Pitt, the great Prime Minister of England, made the land tax perpetual in England in various districts specified in the Act and the landlords were enabled by this Act to redeem the tax altogether by the payment of a lump sum. There may be some doubt as to the wisdom of Pitt's Permanent Settlement of the land tax in England; there can be no doubt as to that of Cornwallis Permanent Settlement in Bengal. In England the Settlement benefited the landed classes only; in Bengal the Settlement has benefited the whole agricultural community; the entire peasant population shares the benefit and is more prosperous and resourceful on account of this measure. If the Settlement limited the tax on one out of the many sources of national income, in Bengal it has afforded a protection to agriculture which is virtually the only means of the nation's subsistence. In England it precluded the State from drawing a larger land tax to be spent in the country for the benefit of the nation; in Bengal it has precluded the State from increasing the annual drain of wealth out of the country (*cf.* the remarks of Mr. Shore, paragraphs 131, 132, 135, 136, 140 of the Fifth Report). In England it saved the landlord class from added taxation; in Bengal it has saved the nation from fatal and disastrous famines (Mr. R. C. Dutt's Economic History of British India, pages 95, 96). "In other parts of India where the land tax is uncertain and excessive it takes away all motives for agricultural improvements and prevents saving and famines have been attended with deaths of hundreds of thousands and sometimes of millions." (*Ibid*, page 94.)

Mr. Philip Francis, who was then a member of the Council of the Governor-General, in one of the ablest Minutes recorded in India recommended that the land revenue demand of the State should be permanently fixed. (Philip Francis' Minute of 1776 published in London in 1782.)

My Association has showed that the Permanent Settlement benefited the Government politically. The zamindars have always stood solidly behind the Government. But for their attitude during the Sepoy Mutiny, the British Government would have been swept away. Whenever the Government was at stake, it counted upon the loyalty of the zamindars. They have been maligned by the oppositionists in consequence. It is a pity that they are now looked upon with disfavour by the Government. Their value in the social fabric cannot be too highly stated. We shall deal with this point later on.

If the Permanent Settlement is abolished, more than four millions of people would be thrown out of ostensible means of livelihood. The Permanent Settlement had been so long providing them with subsistence. What will the Government do with these people?

The miseries of the tenants are due not only to the present economic depression but also in a great measure to the economic drain which has continued for more than a century and half and not because they are rack-rented by the landlords by virtue of the power conferred on them by the Permanent Settlement. Long ago Mr. Shore observed this and wrote:—

"The Company are merchants as well as sovereigns of the country. In former capacity they engrossed its trade, whilst in the latter they appropriated the revenue. The remittances to Europe of revenues are made in the commodities of the country which are purchased by them. Whatever allowance we may make for the increased industry of the subjects of the State owing to the enhanced demand for the produce of it (supposing the demand to be enhanced), there is reason to conclude that the benefits are more than counterbalanced by evils inseparable from the system of remote foreign dominion.

"Every information from the time of Bernier to the acquisition of the Dewani shows the internal trade of the country, as carried on between Bengal and the upper parts of Hindustan, the Gulf of Moro, the Persian Gulf, and the Malabar Coast, to have been very considerable. Returns of specie and goods were made through these channels by that of the foreign European Companies, and in gold dust for opinion from the eastward.

"But from the year 1765 the reverse has taken place. The Company's trade produces no equivalent return. Specie is rarely imported by the foreign Companies, not brought into Bengal from other parts of Hindusthan in any considerable quantities." *See* also Verelst, dated 24th March 1768.

In his lecture on the economic causes of Indian famines delivered at a meeting of the Fabian Society in London on June 28th 1901, Mr. R. C. Dutt said, "The entire financial policy of England in respect of India in the 18th Century to the present day was to charge to India everything which could rightly or even wrongly be charged to that unrepresented country. England has spent hundreds of millions in acquiring and defending her colonies all over the earth. For acquiring and defending the Empire of India she had not paid a shilling. On the contrary during the rule of East India Company, India paid an annual tribute to England reckoned in millions. When the Company was abolished, the cost of the transfer of the Indian Empire to the Crown was charged to India. Since then they had made India pay for

wars in China, Afganisthan, Persia and the Sudan. They maintained a vast army in India mainly for Imperial purposes at the cost of India. They had initially excluded the people of India from nearly all high offices in their own country in order to find a career for English boys in India. A Parliamentary return was submitted nine years ago showing all salaries and pensions of a thousand rupees and upwards paid by India. Taking Rs. 10 for a pound sterling the total came to fourteen millions sterling in Englishmen annually, and only three and one-fourth millions to the natives of India. Such had been the financial policy of England towards an unrepresented country. The result was that the public debt had increased by leaps and bounds in India in a time of profound peace. The public debt, taking ten rupees for a pound, was 118 millions sterling in 1875, in 1895 it was 220 millions, that is, it nearly doubled in India within 20 years of profound peace. India paid for the Colonial Office located in Whitehall; India paid for the India Office located in a part of the same building. In payment of the expenses of that office and of various other liabilities India had to make a constantly increasing annual remittance to England. As India had little manufacture and little trade, virtually the whole pressure fell on the produce of the soil—on the food of the people. Thus India was forced to export far more than she imported and this excess was increasing at a startling rate. In 1894 to 1898 the excess amounted to 25 million tens of rupees. The Royal Commission on Indian Expenditure in their recently published report found the net revenues of India to be 57 million tens of rupees. A sum therefore nearly equal to one-half of the public revenues of India was annually remitted out of India without a direct equivalent. A sum representing the food of 25 millions of the people of India was annually remitted out of India without a direct return. Was it possible that under this financial arrangement India would be other than impoverished and famine-stricken?"

There are also other grounds why the tenants are poverty-stricken. My Association refrains from enumerating them here; but this is certain that the Permanent Settlement is not one of those causes. The tenants are not rack-rented, and oppression by the landlords is a myth. The law has provided sufficient checks against oppression. There have been great increase of population; and according to economists, increase of population always and unconditionally tends to cause rents to rise (this theory of Ricardo has been proved to be correct by Dr. Pierson); why should the landlords be blamed for this? My Association has shown that there has been practically no increase of rent compared with the gross produce.

The zamindari system is theoretically favourable to agricultural improvement at the cost of the zamindar, because he is the permanent

owner and can recover his outlay from the land. Moreover the zamindari estates being large in area, if a zamindar betakes himself to farming he can derive all the advantages of production on a large scale which is impossible in the small plots of the mahalwari and raiyatwari areas. The Permanent Settlement by creating a rich and leisured class has fostered an accumulation of capital and large industries may be rendered possible by the financial backing of the zamindars. (*See* Gokhale's Speeches, p. 493.)

It may be pointed out here that by Regulation II of 1819, the East India Company formally "renounced all claims on the part of Government to additional revenue from lands which were included within the limits of estates for which a permanent settlement has been concluded at the period when such settlement was so concluded, whether on the plea of error or fraud or any pretext whatever," thereby solemnly confirming their solemn pledge given before. So this question cannot be raised now.

Q. 13. My Association does not advocate any of the methods suggested in the question.

(1) The zamindari system which my Association has shown to be as old as the Hindu times and is a part and parcel of land tenure system in India should not be abolished. In the Hindu times we read of powerful landholders who supplied contingents of troops to the sovereign power in times of need. Without citing numerous examples my Association may refer to the *Rampal Charit* of Sandhyakar Nandi wherein it has been described how in the 11th century A.D. Rampal regained his lost kingdom through the instrumentality and help of these big landholders. When the Muhammadans came to power they did not disturb the system already in vogue. From very ancient times the soil of Bengal was held by zamindars or hereditary landlords armed with quasi-feudal powers, paying revenues and rendering military service to the sovereign in times of need, and virtually ruling the people within their own estates. They were recognised as Rajas by their subjects and tenants. They maintained order, settled disputes and punished crimes, They encouraged religion and rewarded piety. They fostered arts and learning and were the patrons of letters. Though many of their functions have been taken away by the British Government the big landlords have still kept up their former tradition. If the zamindari system is abolished public institutions will starve and new institutions cannot be founded. There is scarcely any trade or commerce in Bengal, there are no wealthy merchants, as in Bombay.

At present the surplus capital of the province is invested in landed property which means the purchase of zamindari or its subordinate tenures as it is believed to be a safer investment than trade or manufacture. If the zamindari system with all its subordinate tenures is

abolished this huge surplus capital will either lie idle or be invested in some business. But the inhabitants of Bengal have no experience of business and in these days of hard competition not only amongst the Indian traders but against the efficient foreign traders, such business is likely to collapse with loss of thousands and thousands of rupees. There is also no source from which this loss could be made up. If the zamindari system remains intact the loss could be made good from the profit of the zamindari. People therefore are and would continue to be very unwilling to invest money in trade or commerce.

The number of zamindars and tenureholders in Bengal exceeds 4 millions. It is a part of the customary rule in the country that a zamindar or a tenureholder maintains a number of dependents, male or female, who have otherwise no means of subsistence. They also maintain a large number of employees. In this way people who subsist on the profit of the zamindari system would not be less than 10 millions. The zamindars and tenureholders also pay for the education and living of their dependants and in this way partly solve the unemployment problem. If the zamindari system is abolished this huge mass of people would be thrown out of employment with no immediate prospects of getting their subsistence. Discontent will increase, terrorism, robbery and violence will be rampant. The whole social and political fabric will be thrown into utter destruction. This would be worse than the Jewish programme of Herr Hitler.

If the zamindari system is abolished, that is, all the tenures between the raiyats and the Government are swept away there can be no doubt that in the future time some people will acquire large tracts of country by piecemeal purchase or settlement and though designated as raiyats will virtually hold as tenureholders with the same process of subinfeudation as exists at present. Tenureholders do exist in Government khas mahals at the present day. By thus sweeping away the zamindari system we would be substituting for it another system wherein almost all the various grades of tenants which now exists will remain, only they would be renamed differently. About a century after it may be found that these tenureholders are making large profits. Would then this process of expropriation go on indefinitely? Are these tenureholders or zamindars not to be given any incentive to improve their estates? Would the new raiyats who shall come directly under the Government have the incentive to improve their lands seeing that the most solemn pledge and assurance given by the former Government had been treated as a mere scrap of paper? My Association thinks a Government should be a moral Government which preceives the necessity of fulfilling a solemn pledge. A Government which follows the Machiavellian maxim "the promise given was a necessity of the past, the word broken is a necessity of the present" is a barbarous

Government not worth the name of Government at all. Rights of property and sanctity of contract are never safe under such a Government.

That the zamindars had right before the Permanent Settlement is apparent from the Regulations themselves. Even if they had no such right before, their rights were either created or recognised by the Permanent Settlement and they had been in possession of these rights for about a century and a half. This right has been theirs by long prescription and enjoyment and it is a maxim of legal jurisprudence as well as of political economy that no one who has been in possession of a right for such a length of time should be deprived of the same. Are the zamindars to be deprived of theirs because they have succeeded in making large profits from the lands? If that be the maxim of jurisprudence then private enterprise will lose its incentive and fervour. No right of property would be safe.

"Landlords", says Dr. Pierson in his classical treatise on Economics, "are sometimes represented as a class who contribute nothing towards the income of the community. It is wrong to represent them in this light. It may be said of the landlords that one of the most important of the instrument of production has been entrusted to their care. It is their duty to see that this instrument shall suffer no deterioration through improper cultivation; rather, that it shall acquire increased value, so that it may be handed down in an unimpaired and if possible, in an improved condition to the next generation. The landlord does not, in every case, adequately fulfil his duties, but it cannot possibly promote the public welfare to deprive him of the incentive to do so." (Vol. I, p. 107.)

(2) My Association has already pointed out (and quoted the opinion of Mr. John Stuart Mill in support) that the Permanent Settlement is always better than a temporary settlement. Apart from this, many complicated questions will arise. Suppose, for instance a zamindar has let out his zamindari or estate in patni at a fixed rent reserving to himself a small malikana. Now if the Permanent Settlement goes and the zamindar is made to pay large amount on the basis of a temporary settlement—an amount which far exceeds the amount reserved by himself as malikana, this would be doing a great injustice to the zamindar. The zamindar on the faith of a solemn assurance of the Government that his jama is fixed for ever has let out his estate in patni reserving to himself a small malikana. He would now certainly be faced with a great difficulty as he will have to pay a great part of the revenue out of his own pocket though he has no source wherewithal to pay it. He cannot enhance the rent of the patnidar as he is bound by contract not to enhance the same. Even where he has not let out his estate at a fixed jama it may be that on temporary settlement the jama

payable by him would be greater than the jama realised by him from the tenureholders under him.

It is a notorious fact that on every re-settlement rents of all persons interested in lands from the under-raiyats to the zamindars or tenure-holders is increased. In temporarily settled estates in Bengal the increase has been very heavy though made gradually. Sometimes it became so heavy that the zamindars refused to take settlement of the land at the rate proposed and was granted some malikana while the estates were let out to farmers of rent. In Bengal the rent per acre of the raiyati interest in land is far greater than the rent in permanently settled areas. Thus it is seen that the raiyats are more oppressed in temporarily settled tracts than in permanently settled areas. There is also the fact that they had to undergo the harassment and expense at the time of every settlement which often takes 3 or 4 years at least for completion. The rents of the temporarily settled estates are so heavy that the proprietors cannot pay the full amount in every kist, they pay a portion of the amount and pray for time to pay up the balance which is however generally granted nowadays.

If the Permanent Settlement is substituted by Temporary Settlement merely, the same number of intermediate holders will exist, so that a large portion of the raiyati assets will be swallowed up by these intermediate holders. So this proposition is no solution of the problem adumbrated.

The Government incurs heavy expenditure at the time of every settlement. In order to compensate this expenditure it becomes necessary to enhance the rents or raiyats, the tenureholders and the zamindars. Thus at every settlement some amount of rent is bound to be enhanced even when there is economic depression. We may mention the incident of Contai Settlement which has taken place during a period of dire economic depression. The rents of raiyats have also been increased and there was combination amongst tenants not to pay rent when this increased rent was sought to be realised.

The proposal for substitution of Temporary Settlement in place of Permanent Settlement is a violation of the solemn pledge given at the time of the Permanent Settlement and many times thereafter and offers no solution of the proposition adumbrated and it is distinctly disadvantageous to the raiyats and to all persons interested in land. It leads to neglect of cultivation on the approach of every revision of settlement, in order to remove the ostensible assets. "As the period for revision draws nigh a certain amount of distrust and disquietude arises in the mind of the population. Wealth is concealed, lands are purposely thrown out of cultivation, and many unfair means are resorted to in

order to avoid the increase of rental" (Seton-Karr, p. 68). "The investment of capital in land is discouraged, as there is no certainty that the improvements made at the tenants' expense will not be appropriated by Government in the form of enhanced revenue. The people cannot lead a full and contended life, as they are not proprietors of the land they cultivate" (Imperial Gazetteer of India, Vol. IV, page 231). "The peasant must have lands to till or must starve. The body of the nation is therefore in every case dependent upon the great sovereign proprietor for the means of obtaining food............Intermediate and independent classes there are none; and great and small are the slaves of that master on whose pleasure the means of their subsistence wholly depend. The tendency of such a stage of things is to perpetuate the depotism it creates." (Jone's Peasant Rents, pp. 100—101, 123. *See* also R. C. Dutt's India in the Victorian Age, pp. 486, 502.)

(3) This question is not clear. What is it intended to be taxed—the agricultural income of the landlords from their private land or the income derived from rents, either in cash or kind or profits derived by the landlords from their estates? The intention of the framers of the question seems to be to tax the entire income of the estates or tenures of the landlords. If this is the meaning the new tax is really a violation of the solemn pledge given at the time of the Permanent Settlement that the Jama would be fixed for ever. If the Government can get round its pledge in this way, no one would be safe.

My Association is aware that Mr. John Stuart Mill has advocated the taxing of unearned increment of the landlords. But the question is whether this is a case of unearned increment at all. My Association has already pointed out that the increase in the income of the estate was mostly due to the attempts on the part of the landlords to improve their estates. Further Mr. Mill did not contemplate a case where a solemn assurance has been given to the landlords that their jama would never increase. Mr. J. S. Mill has prescribed the procedure on which such taxation should be made. "The first step should be valuation of all the lands in the country. The present value of all lands should be exempted from tax; but after an interval has elapsed during which society has increased in population and a capital a rough estimate might be made of the spontaneous increase which had occurred to rent since the valuation was made. Of this the average price of produce would be some criterion; if that had arisen, it would be certain that rent had increased, and even in a greater ratio than the rise of price. On this and other data an approximate estimate may be made how much value had been added to the land of the country by natural causes, and in laying on a general land tax, which for fear of miscalculation should be considerably within the amount thus indicated, there would be an assurance of not touching

an increase of income which might be the result of capital expended or industry exerted by the proprietors."

The same writer goes on to add, "But though there could be no question as to the justice of taxing the increase of rent, if society has avowedly reserved the right, has not the society waived that right by not exercising it? In England, for example, have not all who bought land for the last century or more, given value not only for the existing income but for the prospects of increase under an implied assurance of being only taxed in the same proportion with other incomes?" Here Mr. Mill admits that if the society reserved the right of taxing the earned increment there would be no question as to the justice of its so taxing. In our case there is a solemn assurance that the jama would not be increased. Therefore a tax at the present day on agricultural income would be not only unjust to the landlord but a violation of the pledge given. Further the Government not having exercised its so-called right of taxation for a century and a half cannot now come forward and tax it, specially in view of the fact that an overwhelming proportion of the present-day landlords are purchasers of the interests of the original landlords and they have invested their money in good faith on the solemn assurance that there would be no further increase of jama.

Lassalle, the German Social Democrat, in a speech which he made in 1862 said that such a land tax though paid by the landowners has the effect to raising the corn prices and therefore the tax is ultimately borne by the consumers of the corn. Prince Bismark as Imperial Chancellor in 1881 expressed an opinion which practically coincided with that of Lassalle. Their reasoning seems to be this—(1) that the burden of the land tax is shifted by the landowner to the tenant farmer, (2) it is shifted by the tenant farmer to the consumer. Though this proposition has been controverted by some, where full competitive rent prevailed, there is no question where this is not the case, or where tax consisted of a fixed charge per acre. One of the foremost causes of increase in the quantity of the agircultural produce placed on the market is the application of capital to the improvement of the soil and the proposed land tax may check the application of capital, to that purpose.

Mr. Mill says, "A tax on rent would be inexpedient unless some means could be devised of excluding from its operation that portion of the nominal rent which may be regarded as landlord's profit. This argument, however, is not needed for the condemnation of such a tax. A peculiar tax on the income of any class, not balanced by taxes on other classes, is a violation of justice and amounts to partial confiscation." (Economics, Bk. V, Chap. III.)

The proposed tax is really a violation of the solemn pledge given by the Government that the landlords will never have to pay any amount more than the jama fixed. My Association considers that the Cess Act is a violation of this pledge and if such violation go on for ever, and if a Government which pleads for sanctity of covenants is the first to violate it, there can be no safety anywhere, the credit of the Government will soon sink much below par and everything will be thrown into confusion.

Q. 14. My Association has already expressed the opinion that we do not advocate (*i*) or (*ii*) of question 13; but still my Association would record its opinion on the present question. My Association would certainly advocate the giving of compensations to the zamindars and the tenureholders. My Association pointed out that zamindars had rights from time immemorial and they have also acquired an indefeasible right to the soil by prescription. Therefore they must be adequately compensated for the loss of their right. The value of the right should be calculated in the manner laid down in the Land Acquisition Act (Act 1 of 1893).

Government bonds of the face value of the amount ascertained as above should be made over to the landlords. The rate of interest payable on the Government bonds will bear to 100 the same proportion as the nett profit from the estate bears to the value of the estate fixed in the way mentioned above. The Government bonds mentioned above should be made free from Income-tax as no benefit would accrue to the Government of Bengal by enriching the Governemnt of India at the expense of the landlords.

Any other course would be inequitable, unjust and injurious to the zamindars. My Association has already pointed out that most of them are purchasers who have invested their capital in buying properties and they are getting a fixed return for their money. This return should not be reduced for no fault of theirs. Hence it would be just and equitable if the proportion mentioned above is maintained.

It is not possible to say any definite sum which would be required as compensation to the landlords. According to the criterion above laid down the sum required would be between 300 to 400 crores of rupees.

Q. 15. The bonds mentioned above should be redeemable. As the bonds would be a national debt they should not be made permanent. Such a huge amount of national debt cannot be redeemed before 40 years. My Association does not think however such a huge national debt should be incurred or that it might be redeemed at one time. It would make the Government bankrupt. A popular Government which has recently been set up should not at its inception incur such a heavy debt on the bare expectation that the debt would be redeemed at a

future date. *A new popular Government should not embark on such speculation.*

My Association has already dealt with the rate of interest which should be fixed on these bonds. (*See* reply to question 14.)

Q. 16. The zamindar has for a long time been the only channel through which the knowledge and comforts of civilisation can reach the cultivators. To his temple at Puja time or on festive occasions flock all the peasants, male and female. It plays the part of a club to them and affords the only source of collective amusement to them. (Sir Jadu Nath Sarker's Economics of British India, 3rd Edition, p. 110). The zamindar is instrumental in starting a school, establishing a dispensary and a post office which benefit all the neighbouring villages. He is the head of the social structure and all religious and social offences are dealt with by him. He makes arrangement for medical treatment of his tenants, solves their difficulties, acts as an arbitrator in their disputes and maintains discipline. Many of the functions he exercised before have been taken away by the British Government, but he is still the head of the social and religious fabric in a village. On festive occasions his money provides amusements to thousands of his tenants who are too poor to pay for them. He feeds and maintains students, provides for their education and contributes to the upkeep of tols, muktabs, pathsalas and schools for the benefit of the public. He does these things because he looks upon the tenants as his children according to immemorial tradition. If the State purchases his zamindari he would lose all interest in the improvement, maintenance and sanitation of the villages and may shift to towns where his children will have better prospects of education and sanitation. The villages will be without their leaders—leaders of society, of religion and of thought. The whole village social fabric will crumble to pieces and party factions will paralyse all activities of the village.

Q. 17. If it is intended that the interests of all the intermediate holders between the raiyat and zamindar should be purchased that would require a vast sum of money. It is neither desirable nor practicable to adopt such a course which would be ruinous to the country. Even after the acquisition of such interests there will always be persons who by piecemeal purchase would acquire more than 100 bighas or more than what can be cultivated by raiyats. Such persons will always let out portions to cultivating raiyats and will thus practically be tenureholders.

It may be however pointed out that there are many patnidars and mukararidars in many estates interposing between a zamindar and the raiyats. Such persons have their jamas fixed for ever. If these interests are kept intact, the State will not derive the benefit it seeks,

as their jamas are never enhancible. On the other hand, some of them may be in the position of peasant proprietors though my Association is disposed to think that the zamindars are really in the position of peasant proprietors of Europe.

Q. 18. A host of officers will have to be appointed to carry on the Revenue Administration of a district in Bengal if the raiyats come directly under the Government. First of all, one Collector will not be sufficient to cope with the enormous increase of work. If close touch is to be kept up with the raiyats, if their grievances are to be redressed, if any improvement in their condition is to be effected, one tahsildar should be appointed over 200 raiyats and a manager with staff will have to be appointed over 20 tahsildars. A Deputy Collector with staff will have to be appointed over 2 such managers. The number of Deputy Collectors in the district will have to be ascertained according to the size and area of the district. A host of surveyors, inspectors, cashiers, etc., will also have to be appointed. The estimated cost will not be less than 20 per cent. of the gross amount realised. In private estates owing to personal management the zamindars manage with less cost. But even in those cases the collection charges never amount to less than 12 per cent. of the gross amount realised. In the case of the Government, highly paid Collectors, Deputy Collectors, Managers, Inspectors, Cashiers, Tahasildars are appointed. Hence the collection charges are not likely to be less than 20 per cent. of the gross amount realised.

If the interest of the zamindars is purchased and bonds are issued to them, another set of officers will have to be appointed to keep accounts of these bonds. The estimated cost of such an establishment is not likely to be less than 5 per cent. of the amount for which the bonds will be issued. As there are many zamindars and bonds are to be issued to each of them the number of bonds will necessarily be very large and the staff to cope with this increased work must also be large. A separate department for the purpose of payment of interest to the erstwhile zamindars will have to be opened at every district collectorate and also in subdivisions.

Q. 19. My Association does not think that the khas mahal raiyats enjoy any advantages over tenants under the proprietors of permanently settled estates and even of temporarily settled estates. The Bengal Tenancy Act applies to all the tenants but whereas under Chapter X, Part II of the Bengal Tenancy Act, a table of rates has to be prepared in permanently settled areas, such table of rates is not prepared and enhancement can only be granted under section 105 of the Bengal Tenancy Act by the Revenue Officers and under section 30 by the Civil Court. Now when Civil Courts and Revenue Officers enhance the rents of raiyats they take particular care to see that the rent is not enhanced

beyond a very modest amount, say one anna or utmost two annas in the rupee. But in the khas mahal the revenue is settled by the Revenue Officer of the Government who often vie with each other in enhancing the rents of raiyats, their impressions being that they would be promoted if they can show substantial increase of revenue. There is practically no effective check against such increase. It is therefore that the rents of raiyats in khas mahal are greater than the rents of raiyats in permanently settled tracts.

In khas mahal the steps taken for the realisation of rent are as speedy as oppressive. The Public Demands Recovery Act is applied with all its rigour and a raiyat is arrested or his movable properties seized if he does not pay his rent in time. Sometimes the doors and windows of his house and even the thatch are sold for arrears of rent. No remission is granted to him and he is put to various indignities for his inability to pay rent. Rent is never allowed to fall in arrears after one or two years. But in a permanently settled tract the picture is quite different. The raiyat does not dread his landlord as in khas mahals and if any oppression is made by him the raiyat at once goes to the nearest police station or to the Magistrate's Court to get his redress. They are quite helpless in khas mahal. They apprehend that any complaints against the tahsildar or other employees in the khas mahal department would not be either entertained or be successful. The landlords can only demand rents and when the raiyats fail to pay, they have no other alternative than to go to court for redress. Those of the landlords who live in mofussal areas try to avoid going to Court as much as possible in order to avoid harassment and expenses of litigation. It is therefore that they do not sue for rent until it is going to be barred by limitation. The result is that the tenants get immunity for 4 years at least. This immunity they do not enjoy in khas mahal. The tenants are so over-burdened with debts that they are greatly relieved when they enjoy immunity for 4 years. For realisation of arrears of rent the Government issues Certificates against tenants and after notice under section 7 of the Public Demands Recovery Act is served, the Certificate Officer unnecessarily issues distress warrant, body warrant and notice of settling the terms of sale proclamation all simultaneously. In this way the costs mount up to a high figure often exceeding the amount of rent due from the tenants. The tenants are thus unnecessarily harassed and are made to pay more than double the amount due from them.

In khas mahals there would be periodical settlements of rents and as my Association has pointed out elsewhere these settlements are not only harassing to the tenants but also spell enhancement of rent.

My Association has already shown that the raiyats in permanently settled areas are treated with great consideration and sympathy by

the zamindars who have an abiding interest in the soil; they are not merely tax-collecting machines.

Hence my Association thinks that the raiyats would prefer not to come under the Government direct.

Q. 20. My Association has already stated in answer to question 11 that it would not be correct to say that the Permanent Settlement encouraged subinfeudation.

The creation of permanent tenures has not affected the position of the raiyats economically. My Association has already pointed out that these tenures have been carved out of the interest of the zamindars and that they share the rent paid by the raiyats along with the zamindars. Hence the creation of these permanent tenures have not affected the position of the raiyats economically. The position of the raiyats has been made secured by the Bengal Tenancy Act. It may be that here and there some permanent tenureholders have enhanced the rents of the raiyats but probably the zamindars or the Government would have done the same thing even if the permanent tenureholders had not been there.

Where the zamindars live at a great distance, those who take settlement of the permanent tenures are generally men who live in the same locality as the raiyats. In such cases such permanent tenureholders become the social leaders of the poeple. Small tenureholders generally have no high social status; but big permanent tenureholders have, because they come in contact with the raiyats direct. The raiyats' social position is not however affected by the creation of permanent tenures.

Q. 21. My Association does not advocate the State purchase of all tenures as that would involve an unnecessary heavy outlay. We have spoken about this in reply to question 17.

If this question means that only the tenures are to be purchased and not the zamindaris the effect of purchase of tenures will be that the zamindars would continue to be the heads of social structure of Bengal. The economic question in such a case would be a very complex one as by purchase of all tenures the State would be the tenants of zamindars.

The real intention of the question seems to be what would be the social and economic position of the province, if the State purchases all zamindaris and all sub-ordinate tenures. In such a case the whole social fabric will crumble to pieces and a new society will have to be formed with new leaders out of a chaotic state. Nobody can foretell in what way the society will shape itself. Probably some clever and intelligent people will be the leaders or an aristocracy of wealth may

be formed modelled on western civilisation. Ancient Hindu society which had so long resisted many disruptive forces will be utterly destroyed. The Muhammadan society will also lose its former ideal.

My Association has already dealt with the economic position of the province in reply to question 18.

Unless adequate compensation is given to tenureholders, their social and economic position will be greatly lowered and they will swell the rank of the unemployed. If they get adequate compensation they may anyhow preserve their social position for a time; but their economic position will continue to deteriorate with every generation by the operation of law of inheritance.

Q. 22. Even if the zamindaris and tenures are purchased by the State, the homestead and khas lands of the zamindars and the tenureholders should be kept intact and proper rent should be assessed on them. It would serve no useful purpose to purchase the khas land and homestead of the zamindar and the tenureholders, specially the homestead. With regard to the khas lands if the zamindars and the tenureholders refuse to keep them, they may be purchased. Compulsory purchase of the homestead and the khas lands would only add to the heavy debt to the State.

All lands found on enquiry to be in the khas cultivation of the zamindars and the tenureholders and all khas lands wherein no tenant has acquired the interest of an occupancy raiyat should be considered as khas lands.

Q. 23. In ancient Hindu times the land itself belonged to the Crown but were cultivated by others. In Vedic times it seems certain that land was already owned by individuals or families. The term "Kshetra" is unmistakably employed in this sense and in one hymn, one maiden places her father's cultivated field on the same level with his hair as a personal possession. We read also of "gramani," the leader of a village, who was probably invested with both civil and military functions and was the origin of modern zamindar. That originally agriculture was carried on by Aryan tillers is certain. But in the period of Brahmanas the position was changing gradually; and for the present working on his own field was being substituted the landowner cultivating his estate by means of slaves. In the later Samhitas, Brahmanas, etc., we find that the king controlled the land of the tribe; he gave grants of lands to his retainer; and we find it reported in the "Satapatha" and "Aitareya" Brahmans that the king Viswakarman Bhauvan gave lands to his priest. It is more probable that at this time the allotment of lands was determined by the king or the noble to whom he had granted rights of superiority according to customary law. In early Buddhist era we find the existence of a

form of tenure called "Rajbhogga." The holder of such a tenure was empowered to exact all dues accruing to the Government, within the boundary of the district or estate granted to him; but he had not to render to Government any account of the dues thus received by him. They were his perquisites; he could hold his own court and occupied in many ways the position of a baron or lord of the manor. The peasantry had to pay him tithe of the rice grown and though the amount was not strictly a tithe and by royal decree could be varied in different localities the grantee could not vary it; so with the import or ferry and octroi duties (Dighanikaya I, 114, 127, 130). The rural economy of northern India at the coming of Buddhism was based chiefly on a system of village communities of landowners. The king had rights on a tithe on raw produce collected as a yearly tax. All abandoned and all forest lands the king might dispose of and he had the right of escheat. The tithe on produce was levied in kind measured either by the village syndic or the headman. Lands were owned by Brahmins and others and could be sold or gifted away. It might also be let against certain share of the produce. The holdings too in the arable land called the "khetta" of each village would be subject to redistribution and redivision amongst the families as one generation succeeded another. The limits of the whole "khetta" might be extended by fresh clearing of the forest lands and whereas the majority of the holdings were probably small, manageable single-handed or with sons and perhaps a hired man, big estates also are mentioned in Jatakas, farmed by Brahmanas. In the Suttas again we find the Brahman, Kasi and Bharadwaj employing 500 ploughs and hired men to guide plough and oxen. Megasthenes records that apart from the royal domains the ultimate property in the lands appertained to the king; that is the king was entitled to the revenue therefrom and in default could replace the cultivator in his holding (*See* also Arthasastra, Chap. XIX). It was the king's business to organise the agricultural productivity by encouraging the surplus population to settle new or abandoned tracts. The bulk of the population consisted of actual cultivators and Megasthenes remarks that their avocation was to such a degree defined that they might be seen peacefully pursuing it in the sight of the contending armies. The higher classes in the country were entitled for their maintenance to a defined portion of the revenue. Jajnavalkya says "When a man does not cultivate either himself or by means of others he should be made to pay to the owner of the field the amount of grain which the field would have yielded if it had been duly sown with crops." It would thus appear that in those times there were persons who were recongnised as owners of land and others who were only cultivators, with no right to the soil. Megasthenes says that husbandmen were allowed to till the lands on condition of payment of a certain part of the produce. (Mr. Crindle's Ancient India as described by Megasthenes and Arrian, p. 84.)

Coming to the Muhammadan times we find that there were three classes of cultivators having an interest in the soil (1) the original settler and their descendants, (2) the immigrants who had permanently settled in the village, (3) the mere sojourner in the village or those who without living in the village cultivated lands in the village. The original settlers in the village with their descendants and those cultivators who had been admitted to share the same privileges formed the class of khudkasht and they had an hereditary right to cultivate the land of the village in which they resided. They were also called Chapperband or housetied, mourasi or hereditary and thani or stationary (Campbell's Cobden Club Essay, p. 165). Their rights were regulated by custom; they could not be ousted while they continued to cultivate their holdings and pay the customary revenue. There was another class of raiyats who were called paikasht who cultivated lands of another village than their own. They were mere tenants-at-will or more usually from year to year. The nature of their rights was precarious. They had no proprietary rights but they could not be ousted between sowing and harvest. Those who were immigrants from another village only acquired rights as permanent inhabitants of village when they had shown their intention to do so by building and clearing and establishing themselves as members of village community ready to undertake a share in the responsibility attaching to that position (Campbell's Cobden Club Essay, p. 165). Those who were settled in the village for more than one generation were generally considered to have sufficiently shown their intention. Sir John Shore in his Minute recorded on the 18th June 1789, says, "It is, however, generally understood that the raiyats by long occupancy acquire a right of possession in the soil and are not subject to be removed; but this does not authorise them to sell or mortgage it and it is so far distinct from right of property. This like all other rights under a despotic or varying form of Government is precarious." (Para. 389).

Para. 406. "Pattas to the khudkasht raiyats or those who cultivate the land in the village where they reside are generally given without limitation of period and express that they are to hold the lands paying the rents from year to year. Hence the rights of occupancy originates; and it is equally understood as a prescriptive law that the raiytats who hold by this tenure, cannot relinquish any part of the lands in their possession, or change the species of cultivation, without a forfeiture of a right of occupancy which is rarely insisted upon; and the zamindars demand and exact the difference. I understand also that this right of occupancy is admitted to extend even to the heirs of those who enjoy it."

Para. 407. "Paikasht raiyats or those who cultivate the lands of villages where they do not reside hold their lands upon a more indefinite tenure. The pattas to them are generally granted with a limitation

in point of time; when they deem the terms unfavourable they repair to some other spot."

Mr. Shore writes, "I consider the zamindars as the proprietors of the soil to the property of which they succeed by right of inheritance, according to the laws of their own religion and that the sovereign authority cannot justly exercise the power of depriving them of succession nor of altering it when there are any legal heir. The privilege of disposing of lands by sale or mortgage is derived from this fundamental right and was exercised by the zamindars before we acquired the Dewani—with respect to the raiyats their right appear very uncertain and indefinite. Whilst the demand of Government upon the zamindar was regulated by some standard, as I conclude it was from the time of Todar Mal to that of Jaffar Khan they had little temptation or necessity to appress their raiyats." (Harington's Analysis, Vol. III, pp. 430, 433).

According to the great traveller Bernier, a peasant under the Moghul Government reasons thus, "Why should I toil so much for a tyrant that they come tomorrow to take all away from me and at least all the best of what I have and not have, if the fancy taketh him so much as to sustain my life even very properly?" And the Timariot, the governor and farmer will reason thus with himself, "Why should I bestow money or take pains of bettering and maintaining this land since I may expect every hour to have it taken from me or exchanged for another? I labour neither for myself nor for my children and that place which I have this year I may perhaps have no more the next. Let us draw from it what we can, whilst we possess it though the peasants should break or starve, though the land should become a desert when I am gone." (Bernier's Travels).

Messrs. Anderson, Crofts and Bogle who were appointed Commissioners in 1776 reported as follows:—

"The immediate occupant of the soil, whether he be considered as proprietor or tenant, is called raiyat. The ground of which he enjoys fruits and for which he pays rent is granted by the zamindars, the chowdhury or other superior in whose district it is situated. The word 'raiyat' in its most extensive signification, means a subject; but it is usually applied to the numerous and inferior class of people who hold and cultivate small spots of lands on their own account and might perhaps properly be denominated *terre* tenants."

Again they go on to say, "It is unnecessary perhaps to enter into a minute examination of the different tenures on which raiyats cultivate and hold their lands or to attempt to enumerate the various and often contradictory customs that prevail in almost every province. The most general distinction however with respect to their tenures is that of the khudkasht and paikasht. The name of khudkasht is given to those raiyats

who are inhabitants of village to which the lands they cultivate belong. Their right of possession whether it arises from an actual property in the soil or from length of occupancy is considered as stronger than that of other raiyats and they generally pay the highest rent for the lands which they hold. The paikasht on the contrary rent land belonging to a village in which they do not reside. They are considered as tenants-at-will and having only a temporary and accidental interest in the soil which they cultivate will not submit to the payment of so high a rent as the preceding class of raiyats and when oppressed easily abandon lands to which they have no attachment" (Harington's Analysis, Vol. II, pp. 62-64.)

Q. 24. My Association does not subscribe to the view that the cultivating raiyats have always been the actual proprietors of the soil and the rents paid by them to the State were a form of tax for affording protection to their person and property and for carrying on the administrative machinery. It is no doubt true that the State affords protection to the subjects and has to carry on the administrative machinery; but to say that rent is a form of tax is to ignore the special characteristics of rent and taxes.

My Association has already pointed out that the king was the ultimate proprietor of all lands within his domain during Hindu times. Gautama said that the king was the master of all except the priests. In the *Arthasastra* of Kautilya the proportion of produce of land which was payable to the king is said to be in lieu of rent. Various taxes are mentioned therein and the Collector-General was charged with collecting rents and taxes from Crown lands and other sources of income mentioned therein. There were also many minor dues and cesses connected with the produce of land. That in Hindu times the cultivators were not proprietors of soil will be apparent from the *Arthasastra* of Kautilya, that if a cultivator does not cultivate his land he may be ejected from the holding and another tenant may be inducted in his place or the land may be let out to traders or servants of the village. (Arthasastra, Chapter XIX, Dr. Julius Jolly's Edition.)

Megasthenes writes, "The whole of the land is the property of the king, and the husbandmen till it on condition of receiving one-fourth of the produce." (Mr. Crindle's Ancient India as described by Magasthenes and Arrian, p. 84.) India wa at many periods of history subject to many frequent invasions from outside. It stands to reason that the conquerors would claim absolute proprietorship in land to the exclusion of the rights of the zamindars or tenants or other holders of interests in land. It cannot be said that these conquerors would not be claiming any interest in the soil but would rest contented with levying a tax on the raiyats for the protection afforded to them or for carrying on the administration.

In Muhammadan times, the conquerors brought with them the theory of the Persian Sovereigns of the *Sowad* that something like partnership existed in the produce between the sovereign and the cultivator like the metayer system in some European countries. A contract for such a division of the produce was called *Mazaraut*. The analogy in the khiraj to such a contract depended upon the sovereign taking a proportion of the actual produce; and according to that analogy the sovereign was the original proprietor of the land (Baillie's Land Tax, XVII). It was in pursuance of such a theory that during Akbar's time the revenue regulations of Todar Mal provided how much of the produce is to be appropriated by the Government and how much by the raiyats. The mere appropriation of a share of the produce by the Government does not show that it was merely as a tax.

My Association thus finds that both under the Hindu. and Muhammadan Government the State appropriated a share of the produce as a *bali* or *kar* which may mean rent as well as tax. A distinction was always made between rent and tax. Various sorts of duties or taxes are mentioned in the Arthasastra of Kautilya. They are to be distinguished from rent as the paramount power had always the right to eject the cultivators under certain circumstances. That shows though the share of produce taken might have been appropriated for carrying on the administration or for affording protection to the cultivators which is the essential duty of every Government but that does not show that the State had not right to the soil. If the cultivators were the actual proprietors, how is it that they were ousted even for non-payment of rent? My Association may mention here that according to Abu Hanifa the sovereign was the absolute proprietor of all the soil and that all other rights existed by sufferance. When a country was conquered the conqueror was considered a proprietor of the land and the doctrine of Abu Yusuf is that a khiraj should be levied as a punishment, the land being considered as lapsed for infidelity. The Muhammadan who came here as conquerors did never relinquish their claims of right to the soil.

When the British came to India they brought with them the impression which they had derived from their own law, namely, that the proprietorship or actual ownership of the land always resided in the sovereign. (Stephen's Blackstone, Book II, Part I, Chapter II; Maine's Village Communities, Lecture IV and preamble to Regulation II of 1793.) It will thus be seen that at no period of history were the cultivators the absolute proprietors of the soil so that the amount paid was not a tax but a rent. Marshall in his famous book on Economics writes, "The ownership of land is vested, not in an individual but in the firm of which one member or group of members is the sleeping partner while another member or group of members is the working partner. The sleeping partner is sometimes the ruler of the State, sometimes he

is an individual who inherits what was once the duty of collecting the payments due to the ruler from the cultivators of a certain part of the soil, but what in course of time has become a right of ownership, more or less definite, more or less absolute. If as is generally the case, he retains the duty to make certain payments to the ruler of the State, the partnership may be regarded as containing 3 members of which 2 are sleeping partners." If what is paid by the metayers in Europe is rent, then my Association does not see why the share of produce which the sovereign took in India as due to him would not be rent.

Q. 25. My Association is not in favour of extending the principle of creating more tenants with right of occupancy nor should the occupancy right be allowed to more than one grade of tenants. The right of occupancy should be given solely to that class of tenants who actually cultivate the soil whether he is a raiyat or an under-raiyat. If he is an under-raiyat he may acquire the right of occupancy as at present, but then his superior landlord, the raiyat, should not then have the same right of occupancy.

Q. 26. It should be the policy of law not to encourage sub-letting by raiyats. The actual cultivator of the soil who produces the crops must be given such interest in the land as will induce him to improve the land or maintain it in an efficient condition. This may be done only by conferring the right of occupancy on the actual cultivator of the soil.

(*a*) If by the word "tenant" is meant raiyat my Association would say that the raiyat who partly cultivates his own land and partly sub-lets the rest should be deemed to be a raiyat with a right of occupancy only with regard to the land which he cultivates. If after acquiring occupancy right in the land he cultivates, he sublets a portion of it to an under-raiyat he must limit the period of his sub-lease to less than 12 years; otherwise his occupancy-right will cease to exist with regard to the land he has sub-let and the under-raiyat who cultivates the land for more than 12 years would not be ejectable as in section 48-C of the Bengal Tenancy Act.

(*b*) If the raiyat wholly sublets his land, this sub-lease also must be limited to a period of less than 12 years. It is by such measures alone that sub-letting by an under-raiyat may be prevented. By sub-letting the entire land to the under-raiyat a raiyat converts himself to a tenureholder. It is no use enhancing the number of tenureholders in this way specially if the raiyat had already acquired a right of occupancy. There is no reason why there should be a differentiation made between such raiyat and a tenureholder. The tenureholder is in a worst position than a raiyat with right of occupancy in many respects specially with regard to enhancement of rent.

Q. 27. The object of this question is not clear. It may mean—(1) was it the intention of the Permanent Settlement to give protection to

non-agriculturists cultivating agricultural lands, or (2) was it the intention of the Permanent Settlement to give protection to non-agricultural tenants cultivating non-agricultural lands?

The Permanent Settlement provided that as a ruling power the Government would enact such Regulations as it thinks necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil. If the dependent talukdars, raiyats and other cultivators of the soil are non-agriculturists, still they will fall within the categories abovementioned and they will be entitled to protection from Government. But if these non-agriculturists are neither dependent talukdars, nor raiyats nor other persons who actually cultivated the soil, the Permanent Settlement did not reserve any power to the Government to afford them protection.

(1) If the non-agriculturists hold agricultural land and fall within the denomination of the dependent talukdars, raiyats and other cultivators of the soil the Government has power to protect them. It may be mentioned here that the Bengal Tenancy Act has already afforded them sufficient protection. It is however a well-known economic principle that if the interest of farms conflict with that of the farmers, the latter will go. The Bengal Tenancy Act has provided for the unrestricted transfers of holdings, but the hereditary cultivators are proverbially poor and are overburdened with debt. They are indebted to the mahajans or to a capitalist class most of whom are not cultivators. As they are not *bona fide* husbandmen and as they are trying to find out a way for investing their capital the lands will be purchased by them and cultivation is bound to deteriorate. In this way more and more lands will be acquired by the non-agriculturists who will really be middlemen in respect of the lands purchased by them. A true peasant is one who remains a peasant. It is therefore not desirable that land should go to the mahajans. The Government should therefore take steps to protect the actual cultivators of the soil.

(2) With regard to non-agricultural lands, my Association does not think that the Permanent Settlement intended to give protection to the tenants of such lands.

My Associaion is not in favour of giving occupancy-rights to tenants of those lands which are non-agricultural unless these tenants erect pucca buildings on those lands or otherwise improve them at a great cost.

Q. 28. If agricultural lands are converted to use for non-agricultural purposes and at the same time are used for trading or manufacturing purposes or other purposes which bring profit to the holder the statutory right originally given for protection of the interest of the cultivators may be allowed to continue, that is, the agricultural lands

which have been converted to another purpose must add to the wealth of the community.

According to John Stuart Mill: "Though it is a principle of taxation that it should fall on income and not on capital, all taxes are in some sense partly paid out of capital; and in a poor country it is impossible to impose any tax which will not impede the increase of national wealth." Any levying of additional tax would thus impede the national wealth in Bengal which is a poor country. If it is not intended that Bengal will forever remain an agricultural country and will never turn to manufactures or other sources for increasing income then some agricultural lands will necessarily have to be converted to use for non-agricultural purposes. Any imposition of an additional tax will necessarily prevent the incentive to its being converted to use for non-agricultural purposes. If however the profit from that land is so great that an additional tax may be imposed on the profits of the business without affecting it or hindering its expansion then such additional tax may be imposed, not on the land but on the business.

The land tax if at all imposed should bear a certain proportion to the rent; if such proportion is low and if at the same time the valuations of the taxable profit of the land did not take place every year but only once in 10 or 20 years, the impeding action of the land tax upon land improvement would then be scarcely discernible.

Q. 29 & 30. Though my Association cannot definitely say as to whether the total number of bhagchasis in this district has increased or not as it has not been possible within this short time to collect the statistics, still it is very probable that their number is continually on the increase.

(1) The suggestion that such increase is partly due to the fact that the Amendment Act of 1929 has not given the bhagchasis any statutory right seems to be sound. Before this amending Act, the landlords and tenureholders were very unwilling to employ bhagchasis, specially for a number of years on the well grounded apprehension that they may acquire the status of an occupancy raiyat or even of a non-occupancy raiyat and then it would not be possible for the landlords to oust them from the land. As a matter of fact in the District Settlement Records a number of bhagchasis has been recorded as occupancy raiyats and the raiyats who have employed them had been recorded as tenure-holders. The bhagchasis are existing from time immemorial and they have been mentioned even in the Arthasastra of Kautilya. According to immemorial custom they are a particular class of labourers and the apprehension that they may acquire the status of tenants under the Bengal Tenancy Act was responsible in a great measure for the unwillingness of the landlords to employ them as extensively as they might otherwise have been. This apprehension having been removed by the

Amending Act of 1929, the landlords now employ them more extensively than before.

(2) The suggestion that the increase of bhagchasis has been partly due to the fact that in many cases the occupancy holdings have been transferred to non-agriculturists owing to the facility of transfer given by the Amending Act of 1929 is also well grounded on fact. It has been pointed out before that there is much surplus capital nowadays in Bengal seeking investment. The persons who possess such capital advance them to agriculturists who in course of time being overburdened with debt have no other option than to transfer their holdings to such persons. Though the right of pre-emption was given to the landlords by the Amending Act of 1929 this right has been very sparingly exercised and the non-agriculturists therefore became the owners of holdings. Not having any experience of cultivation and in some cases as they live elsewhere these non-agriculturists have no other alternative than to employ bhag chasis for the cultivation of their lands.

(3) The suggestion that there has been an increase in the cultivation on the barga system of holdings which raiyats have sold during the economic depression in order to meet their financial liabilities is only partly correct. My Association has met with very few of such cases.

It may be pointed out here that in consequence of economic depression prevailing throughout the province the price of paddy has gone down to a considerable extent. The tenants now find that it is easier for them to pay rent in kind than to pay rent in cash, as there is no proper market for the produce. In bhag system the bargadars find it convenient to pay the share of the produce to their employers and thus be free to enjoy the remaining portion of the produce which they have got by cultivation. Those who are tenants therefore also find it convenient to cultivate other lands in bhag if and when they find leisure to do so.

Q. 31. In this district a maximum area held by the bargadar does not exceed one and a half acre. It may be said that normally they hold half the above area.

There is a class of persons who live by cultivating in bhag others' lands. But the majority of the bargadars appear to be raiyats or under raiyats of others' lands.

Q. 32. My Association does not think that the right of occupancy and other rights should be extended to bargadars. Those who cultivate in bhag are generally found inefficient. It is therefore that the landlords often have to change bargadars and try other persons. Besides this, those who employ bargadars generally wish to preserve the land as their khas lands wherein no other interest can accrue. The granting of occupancy right and other rights to the bargadars would

prevent them being employed as bargadars in such **khas lands.** *Thousands of people who now earn their livelihood as bhag chasis would thus be thrown out of employment and their distress would be appalling.*

Raiyats and even under-raiyats have, owing to the exigencies of circumstances, to employ bhagchasis temporarily, that is for a year or two and then they resume cultivation by themselves. If the bhagchasis are given interests even when they are temporarily employed in the above manner that would operate as a great hardship on such raiyats and under-raiyats who are forced by circumstances to employ them temporarily. Granting of interest to such bhag chasis would only encourage subinfeudation which in such cases it should be the policy of the law to prevent.

The bhagchasis have been working on the present terms from time immemorial. They have been working well from a long time past and foreign travellers who had occasion to see the bhag chasis as well as other tenants have spoken in one voice that they were a contented lot. Even now they do not complain of their alleged hard lot. This system is also prevalent in England and in the Continent. In Italy they even pay two-thirds of the produce. The picture of such metayers of Italy as portrayed by many writers is not one of poverty. John Stuart Mill has taken great pains to quote from well-recognised authors about the condition of the metayers in Italy; and it would be superfluous to quote him at length. The bhagchasis have a plain interest that the whole produce should be as great as possible in order that their own proportion may be so and this has been pointed out by Adam Smith in his "Wealth of Nations."

The bhagchasis do not require any special protection—all the protection they require is that once they have begun the cultivation they should not be disturbed or interfered with so long as the harvest is not reaped and the produce divided.

Q. 33. My Association does not see why the barga system is not economically sound. It has worked well in practice not only in India, but as has been pointed out before, in Europe also. My Association is aware that many English writers have deprecated the system. But the condition of the metayers in Italy has been pointed in glowing colours by many writers. There the farms cultivated by the metayers generally do not exceed 60 acres in area and are never less than 10. The whole point is how much area a bhagchasi can cultivate in India. If he be kept fully occupied, there is no reason why his condition should be miserable.

According to Mr. Chateanvieux, "It occupies and constantly interests the proprietors which is never the case with great proprietors who lease their estates at fixed rents. It establishes a community of interest, and

relations of kindness between the proprietors and metayers; a kindness which I have often witnessed and from which result great advantages in the moral condition of society. The proprietor under this system, always interested in the success of the crop, never refuses to make an advance upon it, which the land promises to repay with interest. It is by these advances and by the hope thus inspired, that the rich proprietors of lands have generally perfected the whole rural economy of Italy. It is to them that it owes the numerous systems of irrigation which waters its soil, as also the establishment of the terrace culture on the hills; gradual but permanent improvements which common peasants, for want of means, could never have effected, and which could never have been accomplished by the farmers, nor by the great proprietors who let their estates at fixed rents, because they are not sufficiently interested. Thus the interested system forms of itself that alliance between the rich proprietors whose means provide for the improvement of culture, and the metayer, whose care and labour are directed by a common interest to make the most of these advances." (Letters from Italy, pp. 295, 296.)

Mr. Sismondi has painted in glowing colours the conditions of metayers of Tuscany. According to him the rights and obligations of metayers being fixed by usage and all taxes and rates being paid by the proprietors. "The metayer has the advantages of landed property without the burden of defending it. It is the landlord to whom, with the land, belong all its disputes; the tenant lives in peace with all its neighbours; between him and them there is no motive for rivalry or distrust; he preserves a good understanding with them as well as with his landlord, with the tax-collector, and with the church; he sells little and buys little; he touches little money but he seldom has any to pay. The gentle and kindly character of Tuscans is often spoken of, but without sufficiently remarking the cause which has contributed most to keep that gentleness; the tenure, by which the entire class of farmers, more than three-fourths of the population, are kept free from almost every occasion for quarrel."

Q. 34. The effect of giving occupancy rights to bargadars has already been discussed above. Not only the zamindars but the tenureholders, raiyats and under-raiyats all employ bargadars. The effect of giving occupancy rights to bargadars will necessarily be anomalous and not only the zamindars but the tenureholders, raiyats and under-raiyats nobody will employ bargadars. The result necessarily will be that a large number of people will be thrown out of employment as my Association has pointed out before.

Q. 35. My Association thinks that half and half proportion is the most equitable proportion, as is amply proved by the fact that this proportion prevails at least from the time of Kautilya (4th Century B.C.).

My Association is aware that in some cases a higher proportion is realised by employers of bargadars where the employers supply manures, etc., and in many instances the bhagchasis have to pay half of the paddy and straw produced. The bhag chasis have not complained in such cases.

The maximum limit may be fixed at half of paddy and straw to be the landlord's share of the produce.

Q. 36. The wages of agricultural labourers in this district ranges from 4 annas 6 pies per diem in the case of labourers of the village to annas 3 per diem in the case of Santhal labourers. So far as my Association has been able to ascertain the economic position of these agricultural labourers of the village is slightly better than that of the bargadars and is almost equal to that of the under-raiyats. It may be mentioned here that the wages of the labourers have been reduced to nearly two-thirds of the wages received by the labourers before the economic depression. The bargadars also in their leisure hours act as agricultural labourers. The Santhal labourers are largely employed nowadays owing to the fact that they are more sturdy and are satisfied with far less wages. The economic position of these Santhal labourers is not better than that of the bargadars or the under-raiyats. The one great defect in these labourers, bargadars and under-raiyats is that they are all improvident. The economic position of each of them depends more or less on the degree of improvidence.

Q. 37. My Association thinks that though by the Amending Act of 1929, unrestricted right of transfer was given to the occupancy raiyats, the compulsory payment of landlords' fee and the granting of right of pre-emption controlled the passing of considerable areas of raiyati lands to other persons. That many non-agriculturists purchased raiyati lands on account of this right of transfer there can be no question. The landlords at the same time having the right of pre-emption were in a position to check such transfers and choose their tenants. The cultivators are poor and have been rendered poorer by economic depression. Hence the raiyati lands, where transfer has been made, have passed to non-agriculturists in many instances. But it cannot be said that transfers have taken place with respect to considerable areas of raiyati lands. Holdings have been subdivided or sublet thus leading to minute division of parcels of lands below an economic unit.

It is too early to pronounce any opinion on the result of the facilities of transfer given by the Act of 1938. My Association however already discerns some tendency in this direction. That this will be prejudicial to the interest of the cultivating raiyats as a whole admits of no doubt. Raiyats being allowed unrestricted transfers of land, undesirable persons will come in leading to eternal conflict between landlord and tenant. Even now instances are not rare of raiyats making benami

dispositions of their property in favour of litigious persons to put the landlords into troubles. Besides this, it is a well-recognised principle of economics that if the interest of farms conflict with that of the farmers the latter will go. The raiyats will soon lose their lands to the mahajans or capitalists who are non-agriculturists and cultivation is bound to deteriorate below an economic unit. Further, unrestricted transfer results in the accumulation of more land in the hands of a peasant than he may cultivate himself; this also leads to deterioration of cultivation. A true peasant is one who remains a peasant. He should not be a middleman in respect to any portion of a holding. If the transfer is made of a portion of holding more than once, the holding deteriorates below an economic unit. Further, unrestricted transfer brings in new set of tenants who may not perform their obligations and may endanger security of tenure. The cultivating raiyats being improvident and over-burdened with debts, the holding will pass to the hands of persons who have sufficient money and are not finding ample scope for their investment. These men will not be able to cultivate the land themselves and they will either employ bhagchasis or let it out to others thus leading to further subinfeudations. The lands will deteriorate and the landlords will have to remain indifferent spectators of the deterioration of their properties. When the lands will deteriorate they will not bring much profit. They will be sold away again and the cry will be raised that the rent assessed is high and should be reduced. One effect of cultivation by bhagchasis is that they have no means of properly manuring the land and this leads to deterioration. In the interest of the holding and of the cultivating raiyats it is necessary that this right of transfer should be restricted and it should be restricted to agriculturists or *bona fide* husbandmen only.

My Association however considers that such restriction will lead to depreciation of the value of the holdings as the number of available purchasers will be limited. If the value of the holding decreases the credit of the agriculturists will also be limited. It may be mentioned here that the rural credit has almost been destroyed by the Bengal Agricultural Debtors Act.

My Association considers that if before transfer made by cultivating raiyats a provision is made that they should obtain the permission of a Revenue Officer having jurisdiction over the area who on application made by the cultivating raiyat shall make enquiries from the landlord, the raiyat, the President of the Union Board or other men having knowledge of the locality of the intending transferee as to whether such transfer is likely to be beneficial to the holding or other necessary points and then give the permission. In case of involuntary sales the decree-holder is to apply for permission to the Revenue Officer who shall make similar enquiries and is to give permission before the sale. If no such permission is taken before sale, the purchaser after sale, shall make

a similar application to the Revenue Officer and the sale shall not be confirmed unless such permission is obtained.

My Association would point out that the provisions of the Punjab Land Alienation Act seem to be more strigent. Such of its provisions, however, as may be applicable to the circumstances of our province may be adopted with requisite modification.

Q. 38. In Ireland, Mr. Blacker, one of the most experienced agriculturists and successful improver in the North of Ireland whose experience was chiefly in the best cultivated parts, which were also the most minutely divided parts of the country, was of opinion that tenants holding farms not exceeding from 5 to 8 or 10 acres could live comfortably and pay as high a rent as any large farmer whatever—(Prize Essay on the Management of Landed Property in Ireland by William Blacker quoted in Mill's Political Economy).

In this country, if we take an average peasant family to consist of 5 members as has been done by the Banking Enquiry Committee the minimum size of an economic holding cannot be less than 4 acres. The gross produce per acre as has been calculated from the office of the Land Revenue Commission is Rs. 49. If we deduct from it one-third as the cost of production (as has been done in the Bengal Tenancy Act, section 32) and Rs. 3 the average rent per acre, Rs. 30 remain as profit to the raiyat. In 4 acres, the profit then comes up to Rs. 120 per annum, if the present system of cultivation continues. This amount may be barely sufficient for supporting the family. At the same time if we adopt the economic principle that every tenant, who extracts from the land more than his own food and that of any family he may have, increases the means of supporting a non-agricultural population. We shall have to add one more acre to the minimum size of the holding. It seems best for the economy of production that farms should be as large as practicable so that it may occupy fully the time of the cultivator. In case of small holdings the raiyat's time and plough are not sufficiently occupied. As he is not fit to do other work and has no training for the same, much time and energy will otherwise be lost to the country.

Q. 39. It is doubtless true that the size of many raiyati holdings is uneconomic. "....................................subdivision of land," says John Stuart Mill, "often amounts to a great evil, but this applies fitly to a subdivision so minute that the cultivators have enough lands to occupy their time. Up to that point the same principles which recommend large manufactories are applicable to agriculture. For the greatest productive efficiency, it is generally desirable that no family who has any land should have less than they could cultivate or that would fully employ their cattle and tools." In another passage he says, "One of the objections most urged against small farms is that they do

not and cannot maintain, proportionate to their extent, so great a number of cattle as large farms and that this occasions such a deficiency of manure that a soil much divided must always be impoverished. It will be found however that subdivision only produces this effect when it throws the lands into the hands of cultivators so poor as not to possess the amount of live-stock suitable to the size of their farms."

There is no doubt that the laws of inheritance, the statutory rights of transfer and the increase of population are all tending to further subdivision and fragmentation of holdings. These causes also lead to the dwindling away of profits as the same land has to maintain more and more families which arise out of the parent stock specially in the case of Muhammedan families, such division and fragmentation of holdings lead to much waste of time and energy as has been pointed out before. Cultivation of a certain area in one plot takes less time than the cultivation of the same area broken up into small plots bounded by ails and is far more economic.

Q. 40. That consolidation of some holdings is desirable there can be no question. At least those holdings which are below the minimum size of an economic holding should be consolidated. But it is very difficult to render this theory into practice. One solution is co-operation amongst the cultivators concerned; but such co-operation in a village, torn as it is at present, by rival factions, is not likely to last long. If the cultivators combine to start a co-operative society for the purpose of co-operative farming, it may go a long way to consolidate holdings, unless the members break away from the society or are expelled. In co-operative farming there advantages as well as disadvantages. It is possible to resort to improved method of farming in co-epartive farming; tractors may be brought in and this method may relieve the population by increased production. But at the same time, the ails which form the boundaries of parcels of lands must be done away with and it would not be possible in future to distinguish the property of one from that of the other. If any one wishes to borrow money on hypothecating his properties, this may not be possible owing to the fact that his lands are no longer identifiable. In such cases rural credit may shrink to an alarming extent. Such farming is also not possible unless more than one village combine. A village in Bengal consists of a fluctuating body of persons. There would always be great difficulty when one or several persons would wish to migrate into another village or when other persons would decide to come in. The conflict of social interests that always exist in a Bengal village may make the matter more complex. Besides this, co-operative farming requires a degree of literacy, intelligence, knowledge and honesty which are generally absent in a village. This has been the real cause of deadlock in the co-operative movement, which has hitherto proceeded on the easiest lines by starting credit

societies. If these do not flourish it is too much to expect that co-operative farming will make much headway. It will be looked upon with great suspicion when it will proceed to demolish the ails.

Another mode would be to institute enquiries by a Revenue Officer as to what holding should be consolidated. The Revenue Officer should go to the locality and consider the circumstances, position, productive power, affinity, etc., of each small plot of land and recommend its consolidation with others. He should secure the consent of the owners of such plots in the first instance and if that is not possible, they may be compelled to consolidate by law. If they refuse, they would be compelled to exchange the land for another or sell it in the last instance by legislation. Provision is to be made that the joint owners of economic holding will never be able to subdivide the holding; but their respective interest in the holding must be fixed and ascertained at the time of consolidation. These interests may be alienable and saleable but the economic holding is not to be subdivided. This mode would solve the difficulty for a time; but after one generation, the burden on the holding would greatly increase and continue to be greater unless some other solution can be found or the productivity of the land increased, or a limitation is put on the family.

Q. 41. My Association is willing to give special facilities to a cultivator to consolidate his holding. In some cases, this may be possible by exchange; but increase in size by purchase would be possible in a very limited number of cases. The majority of the cultivators are so poor that they cannot afford to purchase properties. Even if they are in a position so to purchase, the cultivators who will have to sell a property for facility of consolidation may not find a suitable land for purchase and cultivation. In such cases they may be thrown out of employment and put to great distress. If they got cash money it is likely that they would soon spend it owing to improvidence or part with it owing to the importunities of their creditors. The best thing, therefore, is exchange; though in many cases, there would be great grumbling or discontent if a cultivator is made to part with an adjacent land for a distant one.

It may be mentioned here that there is no reason why the landlords would not grant the cultivators facilities for consolidation of the holdings. If there is minute subdivision of land, the landlord's rent roll is bound to be extremely large and often unmanageable. He will have to undergo permanent expenses for calculating his dues from a large number of separate tenants in place of a limited number. His security for rent would increase if several parcels are made jointly liable for an economic holding. It seems best for the economy of production that farms should be as large as practicable under the existing conditions of land tenure so as to give room for the exercise of great

ability on the part of the farmer. According to Marshall, while a large farmer who has some rich land can turn poor soil into good account, small holdings will not flourish except on good soil. Their gross retail per acre must therefore be always higher than that of large farms.

Q. 42. There has been an age-long controversy over the question as to whether *grande culture* or *petite culture* is best for a country. The current of English opinion is in favour of large farms; on the Continent the weight of authority seems to be on the other side. M. Passy gives his verdict in favour of large farms for grain and forage; but for the kinds of culture which require much labour and attention places the advantage wholly on the side of small cultivation. According to John Stuart Mill, "Land occupied by large farmer is not, in one sense of the word, farmed so highly. There is not nearly so much labour expended on it. This is not on account of any economy arising from combination of labour, but because, by employing less a greater return is obtained in proportion to the outlay. It does not answer to any one to pay others for exerting all the labour which the peasant, or even the allotment-holder, gladly undergoes when the fruits are to be wholly reaped by himself. This labour however is not unproductive; it all adds to the gross produce. With anything like equality of skill and knowlédge, the large farmer does not obtain nearly so much from the soil as the small proprietor, or the small farmer with adequate motives of exertion; but though his returns are less, the labour is less in a still greater degree, and as whatever labour he employs must be paid for, it does not suit his purpose to employ more."

My Association thinks that in India accumulation of large areas in one particular hand is not desirable. That would convert the holder of such area into a tenureholder as there would be an accumulation of far larger than he could himself cultivate. According to M. de Lavergue, "In some places, in the neighbourhood of Paris, for example, where the advantages of *grande culture* become evident, the size of farms tends to increase, several farms are thrown together into one, and the farmers enlarge their holdings by renting *parcelles* from a number of different proprietors. Elsewhere farms, as well as properties of too great extent, tend to division. Cultivation spontaneously finds out the organisation which suits it best."

Undue subdivision and excessive smallness of holdings are undoubtedly a prevalent evil but the accumulation of large areas in one hand may be no less so. The Governments of Bavaria and Nassan have thought it necessary to impose a legal limit to subdivision and the Prussian Government unsuccessfully proposed the same measure to the estates of its Rhenish provinces.

"The English farmer of 700 to 800 acres is a kind of man approaching to what is known by the name of a gentleman farmer. He must have his horse to ride, and his gig and perhaps an overseer to attend to the labourers; he certainly cannot superintend himself the labour going on in a farm of 800 acres. Besides all these drawbacks; which the small farmer knows little about, there is the great expense of carting out the manure from the homestead to such a great distance, and again carting home the crop. A single horse will consume the produce of more land than could feed a small farmer and his wife and two children and what is more than all, the large farmer says to his labourers 'go to your work'; but when the small farmer has occasion to hire them he says, 'come'; the intelligent reader, I dare say, will understand the difference." (Blacker's Prize Essay on the Management of Landed Property in Ireland quoted in Mill's Principles of Political Economy).

In the Bengal Tenancy Act it has been provided that a man possessing more than 100 standard bighas would be presumed to be a tenure-holder, that is, he is unable to cultivate the lands himself. My Association suggests that a similar area, say 30 acres, should be the limit of such accumulation.

My Association has already suggested a remedy in reply to question 38. The same remedy may be applied when it is sought to accumulate in one hand larger areas than is desirable.

Q. 43. My Association thinks that ordinarily coparcenary is not detrimental to good cultivation. If coparceners live in amity and if there is co-operation amongst them there is every reason that the work of cultivation would be well conducted. But if there is querrel and discord, if there is no co-operation between the coparceners then the work of cultivation is likely to suffer. In a coparcenary the number of workers available is greater but the cause for friction is also great. This evil can be minimised without interference of the laws of inheritance by subdivision, where it does not come below an economic holding. In other cases it may be checked by prudential consideration.

Mr. Sismondi says, "In the countries in which cultivation by small proprietors still continues, population increases regularly and rapidly until it has attained its natural limit: that is to say, inheritances continue to be divided and subdivided among several sons, as long as, by an increase of labour each family can extract an equal income from a smaller portion of land. A father who possessed a vast extent of natural pasture, divides it among his sons, and they turn it into fields and meadows; his sons divide it among their sons who abolish fallows; each improvement in agricultural knowledge admits of another step in the subdivision of property. But there is no danger lest the proprietor should bring up his children to make beggars of them. He knows exactly what inheritance he has to leave them: he knows what the

law will divide equally among them; he seized the limit beyond which this division would make them descend from the rank which he has himself filled, and a just family pride, common to the peasant and to the nobleman, makes him abstain from summoning into life children for whom he cannot properly provide. If more are born, at least they do not marry, or they agree among themselves which of several brothers shall perpetuate the family; it is not found that in the Swiss Cantons the patrimonies of the peasants are ever so divided as to reduce them below an honourable competence; though the habit of foreign service by opening to the children a career indefinite and uncalculable, sometimes calls forth a superabundant population." The method advocated herein may be adopted.

"The habit of not dividing properties," said Dr. Rau (in his book in "the Agriculture of the Palatinate and particularly in the territory of Heidelburg") "and the opinion that is advantageous, have been so completely preserved in Flanders that even now, when a peasant dies leaving children they do not think of dividing in patrimony, though it be neither entailed nor settled in trust; they prefer selling it entire and sharing the proceed considering it as a jewel which loses its value when it is divided. This method may be adopted when the holding is capable of subdivision or becomes less than an economic holding on subdivision. Some co-sharers also may be compelled to sell their shares to one amongst them to keep intact the size of an economic holding; or all of them may let out the holding to one of them for the purpose of cultition. This latter mode, however, is not so desirable as the former, and should be resorted to in the last instance.

Q. 44. The same remedies may be adopted by the zamindars and tenureholders to stop fragmentation of estates and tenures, as in the case of holdings. A common manager may also be appointed on behalf of the zamindars or tenureholders who will manage the estates or tenures and distribute the profit amongst the co-sharers. This will reduce the expense of collection and other costs incident to management; one of the co-sharers may be appointed manager to reduce costs. Such an arrangement may also remove all causes of friction between the co-sharers. This mode is prevalent to some extent in Bengal.

Q. 45. My Association does not think it desirable to compel all co-sharer landlords by legislation to arrange for collection. It is only those co-sharer landlords who own a minute fraction of the entire estate or tenure who may be made to combine for the purpose of collection. This will be advantageous both to the landlords and the tenants. But there are great drawbacks to combination by legislation. There is likely to be a feeling of resentment amongst all co-sharers who are compelled to combine. There might have been discord or bitter feeling or jealousy existing between all persons compelled to combine, so

that combination may become impossible. They may also greatly resent the imposition of a person as a manager by legislation. Who is to choose the manager? What would be the relationship between the manager and the co-sharers? To whom is he to be accountable? Would he be liable to removal and if so, by whom? These are difficulties to be solved. If a committee be formed by election amongst the co-sharer landlords there must be some co-operation amongst them which may be absent in compulsory co-operation by legislation. All that legislation may do is to provide facilities to the co-sharer landlords to combine voluntarily.

Q. 46. In the opinion of my Association though it was expressly laid down in Regulation I of 1793 that the zamindars will exert themselves in cultivation of their lands which means that one of the modes of increasing their income would be extension of cultivation, still there was no bar to increasing their income by enhancing the rates of rent payable by tenants at the time of the Permanent Settlement. It has been pointed out before that there were khudkasht raiyats and paikasht raiyats. There was no bar to the enhancement of rent paid by the paikasht raiyats at any time; as regards the khudkasht raiyats shall presently discuss.

Before doing so it would be profitable to refer to what was done in Moghul times before the British occupied the country. Besides receiving the nankar the zamindars absorbed the other emoluments of the village headman. The zamindars also appropriated, as part of his perquisite, the purjote or mohturfa the fees paid by the non-agricultural members of the village community, also the rights known as jalkar, bankar, ghaskar and falkar. He took a share of seer of each maund of grain; and an anna and a half or two annas on a kuchha bigha, or half bigha, or other produce. He also took half an anna in the rupee in the money revenue which was paid by each cultivator to him as his zamindarana or malikana. These dues were collected by the zamindar direct from the raiyats as his perquisites over and above the amount paid as the Government share. (Land Tenure by a Civilian, pp. 60, 69, 70, 86). These sums did not in consequence appear in his account with the Government but appeared in the accounts with the cultivation or the village under the head of siwai. They were originally allowances for the risk and trouble of collection although the zamindar added to these many other sources of remuneration.

There were two modes in which the enhanced assessment was fixed according to Mr. Shore. One of these was to add the subsequent abwabs and exactions by the zamindars (calculated at so much a month, or so much in the rupee) to the asal or original rate and then to distribute this according to the quantity and quality of land held by the raiyats, or the estimated or actual crop. The other mode was

to assess at a fixed rate for the bigha, whatever be the crop, which rate included the chief item of exaction or extra assessment (Fifth Report, Vol. 1, p. 140).

Mr. Shore observed—"the rules by which the rents were demanded from the raiyats are numerous, arbitrary and indefinite; that the officers of Government possessing local control, are imperfectly acquainted with them, whilst their superiors, further removed from the detail, had still less information; that the rights of the talukdars dependent on the zamindars, as well as of the raiyats, are imperfectly understood and defined; that, in common cases, we often want sufficient data and experience, to enable us to decide with justice and policy, upon claims to exemption from taxes; and that a decision erroneously made may be followed by one or other of these consequences; a diminution of the revenues of Government or a confirmation of oppressive exactions. The necessity of some interposition, between the zamindar and the tenants is absolute; and the Government interferes by establishing regulations for the conduct of the zamindars, which they are to execute; and by delegating the authority to the collectors to enforce their execution. If the assessment of the zamindaris were unalterably fixed and the proprietors, were left to make their own arrangements with the raiyats without any restrictions, injunctions, or limitations, which indeed is a result of the fundamental principle, the present confusion would never be adjusted. This interference, though so much modified, is in fact an invasion of proprietary right, and an assumption of the character of landlord which belongs to the zamindar; for it is equally a contradiction in terms to say that the property in the soil is vested in the zamindar, and to have the right to regulate the terms by which he is to let his lands to the raiyats, as it is to connect that avowal with discretionary and arbitrary claims. If the land is the zamindar's it will only be partially his property whilst we prescribe the quantity which he is to collect, or the mode by which the adjustment of it is to take place between the parties concerned." (Harington's Analysis, Vol. III, p. 397.) My Association too thinks that if there was any intention to limit the rights of the zamindars to enhance the rent of their tenants, that intention would be contrary to the avowed intention of the Government to confer absolute power on the zamindars as will distinctly appear from the resolutions.

That there was some intention that the rents of the raiyats may be enhanced by the zamindars will appear from the Minute recorded by Lord Cornwallis on the 3rd of February 1790. His Lordship observed, "that every bigha of land cultivated by the raiyats must have been cultivated by an express or implied engagement, that a certain sum should be paid for each bigha and no more, and that the rents of estates can only be raised by inducing the raiyats to cultivate the more valuable articles of produce or clearing the extensive tracts of waste

lands which are to be found in almost every zemindary in Bengal." Here His Lordship is referring expressly to contractual rents and the maximum limit imposed by such contract and to increase of rent by cultivating more valuable articles of produce or for increase of the area of cultivation.

Regulation VIII of 1793 does not speak of any enhancement but provides for engagements entered into by the zamindars regarding the lands which were not let out to dependent talukdars at the time, in section 52. With regard to these lands it was provided that all abwabs, mahtuts and other impositions should be consolidated with asal jama into one specific sum and the sum thus arrived at, would be rent payable by the raiyat. It was also provided that the zamindars were to grant pattas to the raiyats which shall be specific as to amounts and conditions. The rents paid by the raiyats by whatever rule or custom they may be regulated shall be specifically stated in the pattas which in every possible case shall contain the exact sum paid by them. In section 60, it was provided, "No actual proprietor of land or farmer or persons acting under their authority shall cancel the pattas of khudkast raiyats except upon proof that they have been obtained by collusion or that the rents paid by them within the last three years have been reduced below the rate of the nirikbandi of the pargana or they have obtained collusive deductions or upon a general measurement of the pargana for the purpose of equalising and correcting the assessment." In this section it is distinctly contemplated that the pattas may be cancelled if the rate of rent mentioned therein is below the rate of rent prevalent in the pargana or if on general measurement of the pargana it was found that the rate of rent mentioned therein is incorrect or unequal. As no provision is herein made that the pattas are to be cancelled on proof that the rate of rent has been generally raised, this shows that there was no contemplation at the time that the landlords would not be able to enhance the rent of the raiyats.

My Association is aware that in a subsequent regulation (Regulation IV of 1794) it was enacted that in case of dispute between the raiyats and their landlords regarding the rates of pattas it shall be determined in the Dewani adalat of the zillah in which the lands may be situated according to the rates established in the parganas for the lands of the same description and quality as those respecting which the dispute may arise and it was further enacted that no proprietors shall require raiyats whose pattas may require or become cancelled under the last-mentioned regulation to take out new pattas at higher rate than the established rate of the pargana for the lands of the same quality and description, but the raiyats shall be entitled to have the pattas renewed at the established rates. My Association contends that this regulation was not exactly framed in the spirit of the Permanent Settlement Regulation; it however does not bar a general enhancement

of rent in the whole pargana. Besides that it may be mentioned that there was no pargana rate properly so called. (Harington's Analysis, Vol. III, p. 421 quoting Shore's Minute.) Sir Barnes Peacock said, "the pargana rates were in all probability originally intended for the purpose of enabling the Government in assessing the revenue, to ascertain what the landowners were in fact collecting from the raiyats, not that the Government was bound in assessing the land to treat the rent actually collected as the true value. It was the interest of the zamindars to show that the rents they were collecting were very low and to make them up by abwabs and cesses. In practice the pargana rates were seldom found to exist."

Were these so-called customary rates varied or enhanced, or how were they regulated? The customary or pargana rates were of three kinds—(1) grain rents, being in original share of the produce not commuted into money and which generally continued to prevail in the province of Bihar. In this case as the value of the grain increased, if taken in kind, it fetched more money, if annually struck in money at the market rates, more money was received—there was no need of any special provision for enhancement. The rent, as it were, enhanced itself.

(2) and (3) money rents, more common in Bengal, i.e., where the grain rents were commuted into money in either of two ways which are distinguished in section 56(7) of 1793 as follows:—

(2) "Where it is the custom to vary the patta according to the article produced thereon" (on the land), that is, there were established rates not for each kind of land but for each kind of produce,—so much for bigha for rice, so much for wheat and so on. In this case the zamindar would benefit by the substitution of more valuable for less valuable articles of produce as contemplated by Lord Cornwallis.

(3) The system which it was hoped would ultimately prevail where the rates were fixed not on each kind of produce, but on each quality of land; thus there were fixed specific sum for a certain quantity of land leaving it at the option of the raiyats to cultivate whatever species of produce may appear to them likely to yield the largest profit. In this case it is evident that without some mode of enhancement the zamindar would benefit neither by the introduction of new product nor by the rise in value of the old product. As it was a new system which was introduced the zamindars would naturally engage with the raiyats at the highest rate prevalent for the most valuable kind of produce and in this way some enhancement would be effected.

The Regulation VIII of 1793 speaks of adjusted rents which appear to indicate a contractual rent and not a customary rent. In the Fifth Report we find the following observation:—

"With respect to the cultivators or raiyats their rights and customs varied so much in different parts of the country and appeared to the Government to involve so much intricacies that the Regulation (VIII of 1793) only provides generally for engagements being entered into, and pattas or leases being granted by the zamindars, leaving the terms to be such as shall appear to have been customary, or as shall be particularly adjusted between the parties; and in this, it is probable that the intentions and expectations of the Government have been fulfilled as no new Regulation yet appears, altering or rescinding one alluded to. It is moreover to be expected that the parties, on experiencing the inconveniences, expense and delay, combined with the uncertainty attendant on decisions in the newly constituted Courts of Justice will come to a reasonable agreement between themselves; the zamindars, for the sake of retaining cultivator, by whose means alone his estate can be rendered productive; and the cultivator for the sake of gaining a subsistence on the spot where he has been accustomed to reside." (Fifth Report.) This report goes to show that it was contemplated at the time that the rent may be otherwise than customary and may be according to the contract between the parties which may be higher than the so-called pargana rate and that there may be an enhancement in consequence.

It may be mentioned that in the Midnapore district the old jamabandis show particular rate of rent for jal lands (paddy lands) and particular rate for kala lands (lands on which other crops than autumnal paddy is produced); and that the classification here is not according to the classification of Todar Mal but different system has been adopted altogether. These rates for different lands vary in different jamabandis and enhancement may be noticed in some of them. My Association thinks that enhancement must have been due to the fact that these were contractual rents and that no bar to contractual enhancement was provided or contemplated in the Regulation.

As regards dependant talukdars it has been expressly provided in the Regulation VIII of 1793, section 51, that the rents from such talukdars may be enhanced under certain circumstances and that in their case also customary and contractual rents were contemplated.

Q. 47. My Association does not think that the permanency and fixity of the rates of rent were contemplated in the case of any of the tenants mentioned in the question.

In section 52 of Regulation VIII of 1793 it has been provided that the zamindar or other actual proprietor of land may let the remaining lands of his zamindari or estate (i.e., the lands which were not let out to dependent talukdars) in whatever manner he may think proper under certain restrictions which have been mentioned in the following sections. The restrictions mentioned in the following sections have been discussed in answer to question 46 and it has been shown that no permanency or fixity of the rates of rent was contemplated. Section 56 of the said Regulation provides that where an established custom is alleged an adherence to that custom shall be preferred. Such established custom was always difficult to prove and this must have been known to the framers of the Regulations. Hence the contractual rate of rent was contemplated.

It may also be mentioned here that before the Permanent Settlement there were the raiyats at fixed rates and ordinary raiyats both coming under the designation, khudkasht. This has been referred to in the judgment of Sir Barnes Peacock in the Great Rent Case. It must have been apparent to the framers of the regulation that the zamindars must have an equitable right of enhancement of rent. Although no rule of enhancement was laid down by the regulations, it seemed hard that as the relative value of produce and money altered, as produce became relatively more valuable and money relatively less valuable, the zamindar should continue to receive, as representing his share of produce, a sum of money actually representing smaller purchasing power, a smaller quantity of grain and a smaller proportion of produce. If this fact was apparent to the framers of the regulation they must have contemplated that the zamindar may enhance the rent of raiyats in certain cases.

With regard to the establishment of new tenants on lands which were lying uncultivated at that time the rent must have been determined by contract and also by competition. In such cases the customary rent even if it existed must have been disregarded—it may not be in large number of cases—but that there were some such cases, there could be no doubt. (*See* section 5, Regulation XLIV of 1793.)

In the premable to Regulation XLIV of 1793 it has been stated "it is at the same time essential that the proprietors of land should have a discretionary power to fix the revenue payable by their dependent talukdars, and to grant leases or fix the rents of their lands for a term sufficient to induce their dependent talukdars, under-farmers and raiyats, to extend and improve the cultivation of their lands and that such engagement should be held inviolable in all cases." *See* also section 2, Regulation XVIII of 1812.

Q. 48. (*a*) My Association has already expressed its opinion that there is nothing in the terms of the Permanent Settlement Regulation

from which it can be inferred that the rents were meant to be fixed in perpetuity.

(*b*) My Association does not think that any other regulation supports the view that the rents were meant at the time of the Permanent Settlement to be fixed in perpetuity. If the reference is to Regulation IV of 1794, my Association has already dealt with that regulation in answer to question 46. It has been pointed out also that there was no pargana rate properly so-called and that it was not capable of clear proof. Therefore in Regulation V of 1812 it was declared that where the pargana rate was no longer clear the term "rates payable for land of a similar description in the places adjacent," should be substituted. If the adjacent lands were newly cultivated and paid higher contractual rate, the rent of the disputed land would also increase. Further it may be pointed out that the rents of those tenancies which existed at the Permanent Settlement were never meant to be fixed in perpetuity as would be apparent from the fact that Regulation VIII of 1793 contemplated cases wherein rates of rent would be assessed below the Nirikhbandi of the pargana that is the pargana rate (section 60); and in the other regulations also it was provided that the zamindars were entitled to realise rent according to the pargana rates. So where the rent was below the pargana rate it was capable of enhancement. It may be mentioned that in clause 7 of section 15 of Regulation VII of 1799, a lease-holder or other tenant as having a right of occupancy only so long as certain rent or a rent determinable on certain principle according to local rates or usages be paid without any right of property.

(*c*) By Act 12 of 1841 and Act I of 1845 (which repealed the former) a purchaser in a revenue sale acquired his estate free from all incumbrances which had been imposed on it after the time of the Permanent Settlement; and he is entitled after notice given under section 10 of Regulation 5 of 1812, to enhance at discretion, anything in the Regulations to the contrary notwithstanding, the rent of all under-tenures in the said estate, and to eject all under-tenants with certain exceptions, amongst which are khudkasht kadeemee, but not simple khudkasht raiyats. It follows that these laws distinctly gave the purchaser the power to eject the khudkasht raiyat whose tenure was erected after the Permanent Settlement and if not ejected he was liable to be assessed at the discretion of the landlord.

Section 3 of Act X of 1859 provided that the raiyats who held land at fixed rates of rent which have not been changed from the time of the Permanent Settlement were entitled to receive pattas at those rates and by section 4 it was provided that the proof that the rent has not been changed for 20 years raised the presumption that the land had been held at that rent from the time of the

Permanent Settlement. This will be discussed later on. By section 6 of Act X of 1859 it was enacted that all raiyats were entitled to pattas at fair and equitable rates. And in the Great Rent Case it was found that a suit to enhance rent after notice was a proper mode of suing for enhancement of rent. On 8th June 1787, some regulations were passed for the conduct of the Collectors. These provide that the Collector is to try to ascertain the rules and rates of assessment upon the raiyats and to endeavour to fix upon some mode of regulating them upon general, fair and ascertained principles.

Lord Cornwallis in his Minute, dated 18th September 1789, says, "It is immaterial to Government what individual possesses a land, provided he cultivates it, protects the raiyat and pays the public revenue" and adds, "I understand the word "permanency" to extend to the jama only and the details of the settlement, for many regulations will certainly be hereafter necessary for the further security of the raiyats in particular." (Fifth Report, Vol. I, p. 592.)

Mr. Shore replied in another Minute of the same day and remarked that with respect to the relations between the zamindars and tenants the interference of the Government was absolutely necessary. "This interference," he said, "though so much modified is in fact an invasion of proprietory right and an assumption of the character of landlord which belongs to the zamindar; for it is equally a contradiction in term to say that the property in soil is vested in the zamindar and that we have a right to regulate the terms by which he is to let his lands to the raiyats, as it is to connect that avowal with discretionary and arbitrary claim. If the land is the zamindar's it is only partially his property whilst we prescribe the quantum which he is to collect or the mode by which the adjustment of it is to take place between the parties concerned." And again he said, "the idea of imposition of taxes by a landlord upon his tenant implies an inconsistency; and the prohibition in spirit is an encroachment upon the proprietary right, for it is saying to the landlord you shall not raise the rent of your estate."

It may be pointed out that the late Sadar Court so late as the year 1849, held "the connection between landlord and tenant in this country commences on the similar understanding when the under-tenant in Bengal whether holding by patta or as a tenant-at-will occupies land with the consent of the zamindar and the rent, however determinable is only a consequence of the arrangement." [Darpanarain *vs.* Sreemati S. D. A. (1849) 1888].

It is significant that in the draft resolution of the Decennial Settlement prepared by Sir John Shore it was written, "in every

mofussal cutchery the nirikhbandi or rates of land shall be publicly recorded and the zamindar is answerable for enforcing this regulation, under a penalty or fine for neglect, at the discretion of Government." This nirikhbandi was necessary according to him to fix the limit of demand by the zamindars. But as a matter of fact this provision was omitted from Decennial Regulation as finally passed, which is significant.

(*d*) My Association does not think that the wording of section 50 (*i*) and section 6 of the Bengal Tenancy Act lends colour to the view expressed in the question. Apart from the fact that the wording of one statute should not be interpreted with the aid of the wording of another statute, my Association is of opinion that the sections referred to interposed a bar which is for the first time enacted in Act X of 1859. Out of the tenancies which existed at the time of the Permanent Settlement there must have been many whose rents have been enhanced. It was only with regard to those tenancies whose rents have remained unaltered that these sections will apply the mere fact that the rents of the tenancies remained unaltered for a long time would not go to show that the original intention of the Government or of the landlord and the tenants was that the rent of the tenancy was not enhancible. That may arise from a combination of circumstances. Sir William Hunter in his introduction to the Bengal Manuscript Records quotes the statement of late Mr. Buckland, a Bengal administrator, whose authority in such question is beyond dispute, "It may not be generally known that the Regulation of 1799 was enacted in order to save the perpetual settlement, the existence of which was then imperilled by the excessive independence which the raiyats enjoyed. For although it is now the custom to say that the rights of the raiyats are not properly protected in the perpetual settlement, it turned out at the time that they could take such good care of their rights that the zamindars could not collect their rents from them until the Government came to the rescue of the zamindars." It appears therefore that the zamindars were so busy in trying to collect their own rent that they could not think of enhancing the rent of the raiyats at least in some cases. It has also been held by learned Judges of the Calcutta High Court that the mere fact that the rents have not been changed for a long time by itself is not sufficient to show that the original contract was for payment of rent by the tenant at a fixed rent forever (Jagabandhu *vs.* Magnamayee, 22 C. W.N. 89—24 C. L. J. 363). The fact that the landlord did not for a long period make any attempt to enhance the rents for the holding or turned them khas was held to be sufficiently explained by the fact that the yield of the land to the tenant was until recently quite poor (Manmathanath Mitra *vs.* Anath Bandhu Pal, 23 C. W.N. 201).

An indulgent zamindar is likely not to enhance the rent of his tenants for a long time. Similarly an indifferent zamindar or a negligent zamindar may also omit to take steps to enhance the rents of his raiyats.

The reference to the word "Permanent Settlement" in sections 50 and 6 of the Bengal Tenancy Act refers only to a point of time so far back that if the tenant had been paying rent unaltered since that time it was necessary to give him a further security by providing that the rent could not be increased. That the rents of tenancies which existed at the time of Permanent Settlement were not unalterable can be ascertained from a variety of circumstances some of which have been mentioned before. Another ground may be mentioned here, Section 9 of Regulation VII of 1799 provides that a tenant shall not be bound to pay an enhanced rate to a purchaser at a revenue sale without written engagement or notice although liable to enhancement. The rates to which the rents may be enhanced are the pargana rates; or if none the rates payable for land of a similar description in the places adjacent; or if the leases of a whole village or local division are liable to be cancelled, the new rates shall not be higher than the highest rate paid during the three previous years (sections 7 and 8). This shows that the rents which existed at the time of Permanent Settlement were not meant to be fixed. Hence the reference to the Permanent Settlement in the Bengal Tenancy Act, sections 50 and 6, is only to a point of time and does not only imply that the rent which existed at the time of the Permanent Settlement was meant to be fixed. It may be asked if the rents of tenancies existing at the time of Permanent Settlement were intended to be fixed, why was it that in section 5 of Regulation XLIV of 1793 it was provided that when a whole or portion of a zamindari is sold for arrears of revenue all engagements by the defaulting proprietors and all leases to under-farmers and pattas to raiyats shall stand cancelled from the day of the sale and the new proprietor shall be entitled to demand the pargana rates from all tenants?

(*e*) This does not appear to be any ground at all. Regulation I of 1793 refers to the former system of increasing the revenue from time to time and states that with a view to such increase, frequent investigations as to the produce were made, and the proprietors were excluded and the lands let in farm or offices of Government appointed to collect the assessment from the raiyat. These usages and measures being considered detrimental to the prosperity of the country, the assesssment has been made fixed and irrevocable, and will not be liable to alteration by future administrations. The whole intention of the Regulation was to declare that the jama assessed would be fixed forever. If there was intention that the

zamindars would not be able to enhance the rent of the raiyats at all there was nothing to prevent the Legislature from stating so in plain terms. Further, my Association has already shown that there was scope left for enhancement and that rents of some tenancies, if not all, were below the pargana rate. The Government under circumstances which need not be repeated here resolved to make a sacrifice (if that was at all a sacrifice) and parted with all its interest in favour of the zamindars reserving to itself only the right to receive an unalterable jama. Therefore it cannot be said that the State could not have allowed the zamindars to get entire benefit of any enhancement of any raiyati rent. It has been previously shown that the State failed to realise adequate rents and had no other option than to make the Settlement which it did with the zamindars preferring to have one tenant rather than multitude of tenants from whom they had neither the machinery nor the ability to collect rent.

Q. 49. My Association does not think that any case has been made out for reduction of rent. It has been pointed out before that according to the calculation of Sir William Hunter the proportion of rent to the gross produce of an acre of land is 12 per cent. in this district and that the Bengal Government report forming an enclosure to Lord Curzon's Land Resolution of 1902 shows that only 11 per cent. of gross produce was paid as rent. The maximum rent which late Mr. R. C. Dutt found in some districts of Bengal was about one-sixth of the gross produce. And the statistics obtained by the Land Revenue Commission shows that the proportion of rent to the gross produce is 7 per cent. So there is no case made out for reduction of rent.

There is practically no material available for determining what the rates of rent were at the time of the Permanent Settlement. Mr. Colebrooke on whose suggestion Regulation V of 1812 appears chiefly to have been framed, stated, "There is actually no sufficient evidence of the rates and usages of parganas which can now be appealed to for the decision of questions between landholders and raiyat." It is impossible at the present day to find out any link or connection between the present-day tenants and the tenants that existed at the time of the Permanent Settlement.

Th grievances which the tenants have at present are entirely due to the economic depression and to the fact that there is no proper market for their produce. The result has been that there has been a great depreciation of the value of crops produced by the tenants and all their requirements are not being met from the produce of their lands. As the price of the agricultural produce has gone down greatly, the tenants have to pay a larger share of the produce as rent than when the price of produce was high. This grievance will

be set right when the price of the agricultural produce will improve. Steps should be taken for proper marketing of the produce, as that would undoubtedly lead to better price being obtained for agricultural produce.

Q. 50. My Association thinks that it was not a mistake of Government to provide in all tenancy legislation since 1859 for enhancement on the ground of rise of prices of staple food crops.

In the Great Rent Case Mr. Justice Trevor said, "As the rent now paid represents the customary rent it represents, on the view which I had adopted, that proportion of the gross produce calculated in money to which the zamindars was entitled; and as the increase in the produce has risen from circumstances independent both of the zamindar and the raiyat the zamindar is entitled to a rise in his rent proportionate to the increased value of his share of the produce. The formula, then, by which this increase should be determined seems to me the following: the value of the gross produce before the alleged alteration in the same is to the rent which the land then bore as the altered value of the produce is to the rent which should be assessed on it, or, in another form, the old rent must bear to the new rent the same proportion as the former value of the produce of the soil bears to its present value."

Mr. Justice Steer considered three propositions for enhancement of rent, the last being that the rent should be adjusted presuming that the old rent bore a just proportion to the old produce, to give to the zamindar the same proportion as rent out of the present produce. After a consideration of all the propositions he came to the conclusion that the third proposition, namely, the one above stated is certainly more simple and apparently equitable.

According to Marshall a rise in the value of the produce causes a double rise in the value of the producer's surplus. So it is equitable that the landlord should get a share of this increase.

According to J. S. Mill, "Rent does not really form any part of the expenses of productions or of the advances of capitalists—whoever does pay rent, gets back its full value in extra advantages and the rent which it pays does not place him in a worse position than, but only in the same portion as, his fellow producer who pays no rent but whose instrument is one of inferior efficiency. * * * Rent which any land will yield, is the excess of its produce, beyond what would be returned to the same capital if employed in the worst land in cultivation."

Q. 51. It has been previously shown in answer to question 56 and other questions that it was not the intention of framers of the Permanent Settlement that all future settlements of waste lands should be made at the pargana rates.

It was also very difficult to find out what the pargana rates were even at that time. Sir John Shore in his Minute wrote as follows:—

"Toran Mull is supposed to have fixed the rent payable by the raiyats, but by what rules he settled it, we are not certainly informed. The Asal Jama established by him does not now anywhere exist. At present, no uniformity whatever is observed in the demands upon the raiyats. The rates not only vary in the different Collectorships but in the parganas composing them, in the villages, and in the lands of the same village; and the total exacted far exceeds the rates of Toran Mull. Where these variations take place by any established rules founded upon the quality of soil, its produce, and the usage to which the land is applied, however perplexing they may be to the Collector, or other Officer of the Government, I do not deem them of material inconvenience to the raiyats, who from usage understand them, and can tell when they are exposed to exactions. But the standard is often so indeterminate. that the raiyats neither know what they have to pay, not can the officers of Government without most difficult investigation, ascertain whether they have been imposed or not." (Harington's Analysis, Vol. III, p. 421.)

It has already been pointed out that Mr. Colebrooke even before 1812 said that there was no sufficient evidence then existing of the rates and usages of the parganas. So it is impossible at the present day more than a century and a quarter after to revert back to the alleged pargana rates no semblance of which exists either at the Sherista of the landlords or in the archives of the Government.

Q. 52. According to John Stuart Mill, "Custom is the rule in a rude state of society, whereas competition has beome the governing principle of contracts at a comparatively modern period." The relationship between landlords and tenants in Bengal at present is based entirely on contract though the rent originally paid might or might not have been customary. If we go back to custom, it would revolutionise the modern system of relationship between landlord and tenants.

My Association therefore advocates that economic rent should be deemed to be the fair and equitable rent if a new adjustment is made now. The difference between the produce of land just paying the cost of cultivation and land which owing to its situation or superior fertility yields produce of much higher value should be the maximum of such fair and equitable rent. In order to ascertain what would be the actual rent, the element of competition should be introduced, *i.e.*, my Association advocates Nos. (1) and (6) combined, out of the system suggested in the question. This system of rent was originally advocated by Ricardo and though controverted by

Carey has still held its grounds. My Association does not think it necessary to repeat all the arguments in favour of such rent.

As regards the system No. (2) suggested after paying all expenses of cultivation including the food of the cultivator and his family it is not likely that anything would remain to be paid as rent. It will always be difficult to find out what would be the legitimate expenses of a cultivator and his family. The Provincial Banking Enquiry Committee has pointed out that the standard of living of Bengal peasants has been steadily on the rise. They now wear more numerous and more expensive articles of attire than their grandparents did half a century ago. Luxuries have increased to a large extent by their introduction into villages by the improved means of communication. Cigarettes have to a large extent replaced the chief indigenous tobacco which used to be smoked before (page 29 of the Report). My Association does not grudge them a higher standard of living but at the same time it must also be considered that it will be difficult to ascertain what their legitimate expenses would be and therefore what should be the margin left for rent. It may be presumed that when a tenant enters into contract with his landlord for payment of rent the amount which he stipulates to pay as rent is left to him after defraying the legitimate expenses for the food of himself and his family. So this point need not enter into consideration for the amount of rent.

(3) Besides the disadvantage pointed out in this system it should always be remembered that it is not always possible to ascertain the amount of produce. In large zamindaris the cost of collection would amount to a huge figure if all tenants are to pay a definite share of produce as rent. As the time of harvest or gathering of crops is almost the same everywhere, so far as regards winter paddy is concerned, the zamindar will have to employ a number of persons to be present at the gathering of each tenant's crops, for the produce cannot be ascertained unless the landlord's man and the tenants both calculate the produce at the time of harvesting or gathering of crops. This will also lead to unnecessary harassments of the tenants because they will not be able to remove the paddy until the landlord's man comes and ascertains the produce in his presence. Another great difficulty would be if the tenant does not cultivate the land and allow it to lie fallow there would be no produce and the landlord would not be able to get any share. This will be giving a premium to indolence and laziness, the land will also be deteriorated in consequence. If the tenant does not cultivate the land properly the produce would be less than usual; this course will be adopted by the tenants when there would be any dispute between the landlords and themselves. Hence in bhag system, in our part of the country the cultivation is done under the eye of the landlords.

(4) Market value of the land should not be the sole criterion of rent. Market value often fluctuates and fluctuating rent would be harassing to both the landlords and the tenants. Market value is always difficult to ascertain and if every year market value has to be ascertained for the purpose of fixing up rent this will lead to unnecessary expenses both of the landlords and the tenants so very likely they will not be able to agree as between themselves regarding this market value and many Revenue Officers will have to be appointed for this purpose. Besides this, if by the tenants' act there is deterioraton of soil the market value will be less and the landlord will be entitled to less rent not through any fault of his own but entirely through the fault of his tenants. Besides this, if the tenant improves the land after incurring great expenditure upon it the land will rise in value and the landlord will be entitled to a higher rent though he himself did not contribute any amount towards its improvement. This will really act as a check on improvement made by tenants at their own expense. In the Bengal Non-Agricultural Land Assessment Act, market value of the land is not the sole consideration in determining fair and equitable rent. The market value of the land is fixed on the profits derivable from the land after deducting rents, etc. So rent is not one of the elements in determining the value of the land and should not be calculated on a percentage of the market value.

If rent is fixed on a percentage of the market value such value will be greatly depreciated, as purchasers will have to pay a higher rent if a high value is put in the deed of transfer. According to economists, the value of a thing is determined by the utility of their land increment, their final utility as Jevons calls it. Rent does not enter into it in the case of lands. Hence it would not be correct to fix a percentage of the market value and call it rent.

(5) My Association has already pointed out that as society progresses, rent should be regulated by competition and not by custom. We therefore should not go back to custom again and leave aside competition. Customary rents are always very difficult to prove, it may be safely said that there is no customary rate at present. If we scan the pages of record-of-rights we do not find any indication of any customary rate of rent and no trace of it is to be found either in the present-day papers of the landlords or in the record room of the Government or the rent receipts of the tenants. Hence if we revert to it again it would be impossible to prove what the customary rate is.

The opinion above expressed should not however be taken to mean that the present rents should be overhauled and a new system enforced. This present rent is quite fair and equitable, and should

the State ever realise rents direct from tenants the above method should be adopted.

Q. 53. The present rents paid by the cultivators are based on the principle formulated in Act X of 1859 and Act VIII of 1885. These Acts speak of customary rents, but rents based on contract are not customary rents. The contractual rents are fixed by guess according to rents paid by similar lands in the vicinity, but sometimes rents based on contract are higher and sometimes lower than such rents because competition enters to some extent in cases where rent has to be fixed by contract. Consideration of the productivity of the land also enters sometimes in such cases. But my Association thinks that in the majority of cases the rents paid by the cultivators may be described as lump rents. It is true that in practice the rates differ greatly for land of similar value in almost every village as will appear from the record-of-rights framed for that village.

Q. 54. It is not our experience that the poorer and weaker tenants pay higher rents in many estates. There may be some poor and weak tenants who pay higher rents in proportion but this is not because they are poor and weak but for many other considerations, which it is impossible to generalise.

Besides the factors suggested, another factor is difference in situation. Some land may be quite close to the market, while other land is situated at a great distance from it. The man who rents the one will have to spend a great deal more labour, or to pay a great deal more for labour, in order to get his produce to market than the man who rents the other. Those lands will not fetch the same rent. This is the substance of Ricardo's theory and my Association thinks that this theory holds good in our district also.

Q. 55. If all zamindars and middlemen between the State and the raiyat are removed, it would be equitable to readjust rent on uniform basis throughout all parts of the province. The principle to be adopted has been sufficiently indicated above and need not be repeated.

In order to give effect to the principle enunciated above it would be necessary to organise a thorough investigation into the nature, situation and productivity of every land in the province and to prepare a new record-of-rights.

Q. 56. My Association does not advocate that a definite share of the produce should be paid by all cultivators. If any such basis is adopted, the minimum should be one-sixth share of the produce. In England it is one-third of the share of the produce.

Q. 57. My Association does not see why the present-day landlords should be removed if another set of persons with permanent rentals is to be substituted in their place. Some years after when these persons by their hard labour will be able to earn more than was contemplated, the cry again will be raised that the new Settlement in perpetuity is to be cancelled and another set of persons substituted in their stead. Is then violation of pledges to go on forever?

There can be no doubt as has been pointed out before that tenants in perpetuity are more interested in improving the land than a tenant for a fixed term.

If the rent is to be made alterable it should not be made to vary according to the needs of the State from time to time. The so-called needs of the State are so elastic that the phrase will always be used to start an engine of oppression. We have had sufficient experience of such "needs of the State" in United Provinces, Bombay and Madras during the early years of the British Rule.

If rents are to be revised the minimum period for revision will be 40 years.

Q. 58. My Association does not think that there would be any advantage in the substitution of income-tax on profits from agriculture in place of rent. It is an economic principle advocated by Messrs. Bentham and Mill that an income should not be taxed if it was not more than sufficient to provide the owner with the mere necessaries of life. Mill maintained that the legislature ought in the first instance to decide what is the maximum income which should be allowed to escape the income-tax. Thus income below a certain figure must be exempted from tax and the result would be that a large proportion of land in Bengal would not be liable to taxation and this fact would tend to increase the proportion of such land in course of years. Such tax being paid out of profits is also likely to raise the price of agricultural produce and would be a discouragement to prudence. When the tax raises the price of the agricultural produce it will be paid out of the pocket of the consumer, and labourers also will thus have to pay a share of it. Besides that, if the tax exceeds a rack-rent in amount, it tends to throw the soil out of cultivation, for it is evident that the importation of agricutural produce will be encouraged if the price of such produce is artificially raised in the home market by an excessive land tax and if an increased amount of produce is imported a diminished quantity of produce will be grown in the country itself. Further, it is also difficult to ascertain the actual profit derived from agriculture and some tenants may be under-assessed and some over-assessed. A special department of Government with a huge

staff may be necessary to ascertain the income derived from the agricultural produce as this must necessarily differ in different years. If in a certain year there is a failure of crops owing to droughts or other causes, no income-tax can be levied in that year. Thus the income of Government derived from such income-tax will necessarily fluctuate greatly in different years and no Government can go on with such fluctuating income.

Q. 59. Fair and equitable rent was defined in the reports of the Rent Law Commission, Vol. 1, page 24, paragraph 46 to be "such a share as shall leave enough to the cultivator of the soil to enable him to carry on the cultivation, to live in reasonable comfort and to participate to a reasonable extent in the progressive and improving prosperity of his native land." This definition or description was not embodied in the Act probably owing to many difficulties incident to such description. It was embodied in the Act that "all rents payable by tenants shall be presumed to be fair and equitable until the contrary is proved." Rules were laid down in the Act for enhancing the rent. These rules are embodied in sections 6 and 7 in the case of tenure and sections 30 to 36 in the case of raiyats. The principle adopted in the case of raiyats is that the prevailing rate shall be equal for lands of similar descriptions and with similar advantages in the same or neighbouring villages, that the raiyats will have to pay enhanced rent in the case of rise of average local prices of staple food crops or in case the productive power of land is increased by fluvial action or when improvement is effected in the productive power of the land at the expense of the landlord. With regard to the first ground the policy of the law was to reduce all rents to the same level in case of lands of similar character with similar advantages and is unexceptionable. As regards the second and the third grounds, as the raiyat will enjoy more profits through no exertion of his own it is just and equitable that he will give a share of it to the landlord. With regard to the fourth ground also no exception can be taken. Therefore my Association thinks that neither the principle nor the procedure adopted by the framers of the Bengal Tenancy Act can be held as defective. But there is one fact which should have been taken into consideration, namely, whether the existing rates are fair and equitable, *i.e.*, whether it satisfied the requirements laid down by the Rent Law Commissioners. A detailed investigation would have been necessary which probably was thought impracticable at the time.

Q. 60. In case of fluvial action the landlord may have done nothing to bring it about but the tenant has also done nothing to improve his land. So also it is equitable that the landlord in case of permanently settled estates and the State in case of khas mahals would get a share of the increased profits. This is incident to the

ownership of land. If in the case of deterioration of land on account of deposit of sand by fluvial action the tenants can get abatement from rent, there is no reason why he should not give a share of his increased profits owing to the same cause.

Q. 61. My Association approves of the principle that the tenants should pay enhancement of rent if there is rise in prices. This question was exhaustively dealt with by all the judges in the Great Rent Case and they unanimously came to the conclusion that the tenants should pay enhanced rent in such cases. It is not necessary to reiterate the arguments advanced therein.

Q. 62. My Association thinks that even in such cases the tenants should pay enhanced rent though in a smaller proportion than otherwise. It may be mentioned that in every case the tenants will bring forth the plea that they require the whole crops for their own consumption and it will be always difficult to ascertain whether this is true or not. Even in the case contemplated, tenants have to pay some rents. The rise in prices was not brought about by any exertion on the part of the tenants. Besides this when there is rise in prices the tenants have to pay a decreased share of the produce to the landlord though the money value remains the same. The tenants ought to make good this loss on the part of the landlord. Further if there is no enhancement in the case of tenants who require their whole crops for consumption, when population will increase, and there will be either subdivision of holding or more mouths to feed on the usufruct of the same holding, there will be no enhancement. Thus in course of time all enhancement will have to be stopped. Again, there will be a tendency to transfer a portion of the holding in the *benami* of another so that it may appear that the portion of the holding that remains after transfer was not sufficient to support his family.

Q. 63. It has already been stated that enhancement of rent on the ground of prevailing rate cannot be taken exception to on any ground. It may be mentioned here that my Association does not see why there should be reduction of rent on the ground of prevailing rates.

The apprehension mentioned in the question seems to be groundless. So far as my Association is aware lands have never been improved at the raiyat's own expense, and in spite of positive provisions in the Bengal Tenancy Act, no evidence regarding improvement has been applied to be recorded by any tenant up till this day.

Salami does not represent advance rent. It represents the value of the interest granted to the tenants. If a heavy salami is paid by the tenant for reducing the rent of a holding at the time of taking lease, that reduced rent cannot be considered to be the prevailing rate. And rent should not be reduced on the basis of a special case made according to a special agreement between the parties.

Q. 64. My Association does not think that there should be a provision for reducing high contractual rents or for limiting rents for new settlements. Where the contractual rent is high, the tenants would be unable to pay it after a few years and would surrender the holding, and no other tenants can be obtained who would consent to pay such rent. This is our frequent experience. It is always safer to leave everything to natural economic laws than to limit or handicap it by litigation. If a limit was put by legislation, it may prove unjust to one or other of the parties, the limit proposed may be wholesome at one time and injurious at another time. Reduction may be proposed up to a certain point and this must be after close investigation extending over many years after incurring considerable expense. But at the close of the investigation or after some years, the reduction adopted may again prove to be injurious. To fix, therefore, reduction of rent by legislation can never be thought of. Reduction of rent without comparison to the landlord would be unjust and expropriation.

If we limit rent of new settlements by legislation, that would also operate as hardship not only on landlords but also on many tenants. The best lands would not be paying rent proportionately to the worst lands and many worst lands would be thrown out of cultivation or would be paying no rent at all. If the 2nd, 3rd or 4th class lands pay economic rents, the 1st class lands owing to the limit proposed may pay rent equal to the 2nd class lands. This will operate as hardship on the tenants who cultivate 2nd, 3rd and 4th class lands. The landlords also will be unjustly deprived of a portion of the rent. Rents tend to increase with the increase of population. It is not just and equitable to deprive the landlords of a portion of their legitimate dues. If a limit is put on rents for new settlements, the limit will be regarding 1st class lands, as there would be no criterion as to what would be the limit of other classes of lands, rents settled will operate as hardship on some while others may escape lightly. Another effect of such limitation would be that landlords will levy heavy salamis for new settlements either openly or clandestinely.

Q. 65. Chief defects regarding settlement of rent in—

(*a*) Temporarily settled and Government estates—

(*i*) There should be express provision, when a table of rates is being prepared by a Revenue Officer, that person interested should be given notice and permitted to adduce evidence regarding every entry to be made in a table of rates. The tables of rates should be prepared on consideration of such evidence and other circumstances necessary to be enquired into for preparing a table of rates. If necessary the opinion of an agricultural expert may be taken regarding the nature of the soil. Evidence should also be taken regarding the cost of production incurred by the tenant in his holding and also the yield thereof.

(*ii*) In section 104B power has been given to the Revenue Officer to deal with objections but no appeal has been provided therefrom. This should be provided. The rent settled should not have an irrebuttable presumption.

(*iii*) All objections which are to be preferred under sections 104A to 104F should be judicially disposed of after taking evidence and not hastily put an end to.

(*b*) Permanently settled estates—

(*i*) Before disposing of section 105 cases it may be useful to prepare a table of rates for a whole district so that settlement of rent may proceed on a uniform basis. Such table of rates will be taken into consideration at the time of disposing of applications under section 105.

(*ii*) The presumption attaching to the settlement record-of-rights should be relaxed and where the settlement records of rights are prepared upon a basis, the basis should be invariably stated, so that the Civil Court may have an opportunity to judge as to whether the Settlement Officer is right in making the entry. All documents on which the entry is based including dakhilas and landlord's paper should be specified.

(*iii*) At the time of khanapuri and attestation and even in section 103 cases disputes are very hastily disposed of and proper evidence is neither recorded nor considered. Appeal should be provided in section 103A cases. Khanapuri work is done by low-paid Amins who are amenable to corruption, and their works are not sufficiently checked at the time of attestation or in subsequent stages owing to haste in the disposal of cases.

Q. 66. My Association does not know of any case where a proceeding under section 105 resulted in unfair enhancement of rent. On the contrary all Revenue Officers who were deputed in this district were favourably inclined towards the tenants. Hence in all cases without exception they took into consideration the so-called neglect on the part of the landlord and granted enhancement to a small extent. There was no fault of the Settlement Court or of a Special Judge.

Q. 67. This question must be answered in the affirmative. Wherever any revisional settlement is made the Revenue Officers vie with each other in enhancing the rents of the raiyats, their impression probably is that they would be promoted if they can show increase of revenue. There is in fact no limit to their enhancement.

In Madras assessments were revised at each recurring settlement on the principle that one-half of the net produce of the soil was due to the Government as revenue and this net produce was ascertained by deducting from the gross produce the estimated costs of cultivation. The cost of cultivation was not taken at its true figure. Mr. Meyer

says "The tendency to make the cultivation expenses roughly proportionate to the value of the land is one of the weak points in the Settlement Department." Dr. MacLean says in p. 109 of the Manual of the Administration of Madras, "The cost of cattle, implements, seeds, the wages of permanent servants, and the cost of transplanting are taken as constant, whatever the soil. The Settlement Department endeavoured "to make the cultivation expenses roughly proportionate to the value of the land" and this rendered the estimates of the nett produce of the soil wholly unfair and untrustworthy. (R. C. Dutt's Second Letter to Lord Curzon, dated 20th February 1900.)

In Bombay the first settlement commenced in 1836 and showed an increase of land revenue by 32 per cent. exclusive of Poona, etc. The second settlement began in 1866 and showed an increase of 30 per cent. The third regular settlement from 1896 also showed a similar increase. There was no check on such enhancement. (Mr. Dutt's Third Letter to Lord Curzon, dated 6th April 1900.)

It is not necessary to multiply instances. The primary object was simply to enhance revenue, as will appear from various despatches and letters above quoted.

Q. 68. My Association does not know of any estate where the enhancement has been unfair to the tenants.

Q. 69. In the opinion of my Association it has been a mistake on the part of the Government to go on with revisional settlement during a period of economic distress. The result has been that the rents of the raiyats have been enhanced at a period when no enhancement should have been made. This shows the tendency of every revisional settlement to enhance the revenue. Huge expenses have been incurred at a time of acute economic distress and these expenses are to be paid by the tenants. These settlement operations entailed much loss and hardship on the tenants and they have not been able to pay proper attention to the works of the settlement officers for the purpose of safeguarding their interests. Their rents have been increased at a time when the prices of agricultural produce have gone down to a considerable extent. The result is that the share of produce now payable by the tenants is about three or four times the share which used to be formerly paid by them, as the prices of produce have gone down in that proportion. So a further enhancement of money rents has resulted in the liability of tenants to pay a greater share of the produce. Hence the grievances of the tenants are quite legitimate. The tenants in Contai khas mahals have therefore raised their voice in protest.

Q. 70. My Association has no experience regarding khas mahals of different districts.

Q. 71. It is not a fact that in permanently settled areas remissions of rent are not ordinarily given. In those estates where crops are destroyed by drought or inundation many landlords give remissions of rents to tenants. These remissions are given in many cases out of grace and in some cases owing to the fact that there is a custom of granting such remissions. Even when there is such custom of granting such remissions the landlords do not get any remission of revenue. Even where no remission is granted the landlords of permanently settled areas do not often collect rents from tenants in years of distress and give the tenants ample facilities for payment of rents according to convenience.

Test works are opened when famine is declared in certain areas. Famine is generally not declared except where there is extreme distress, because officers of Government are afraid that the income of the Government will be reduced if remissions are granted and test works are opened. Remissions of rent in khas mahal areas are also not given on a similar apprehension.

If the zamindars are given greater latitude by remissions they will be able to grant more remissions to the tenants. It is therefore necessary to relax the rules which prevail at present.

When crops are totally or partially destroyed in a certain area, the Collector should be vested with powers to allow suspension of revenue to the zamindars so long as the distress continues and either to remit the revenue altogether or arrange for easy payments thereof after the distress is over, according as the distress is severe or not. If the revenue is remitted altogether the zamindar should not be allowed to realise rent from his tenants for the period for which the revenue is remitted. If the revenue is suspended for a time and realised by easy payments afterwards, the zamindars may be compelled to do a similar thing towards their tenants. It is not necessary for a distress to be so widespread as to open test works in the area. Much will depend upon the mentality of the Collector.

Q. 72. *See* the Statement VI of the Statistical Abstracts compiled in the office of the Land Revenue Commission.

Q. 73. There is no conclusive evidence that the productivity of the soil in Bengal is generally on the decrease. The productivity of the soil depends on more facts than one, and unless these are scientifically eliminated one by one no positive conclusion can be drawn that the productivity of the soil is generally on the decrease. The decline in the quantity of produce may be due to defective manuring, defective seeds and want of proper irrigation. The capacity of peasants also seems to have decreased owing to the prevalence of Malaria which saps their vitality, soils are not properly ploughed, turned up and mixed with

manure and the same amount of labour cannot be bestowed now as in former days. A peasant in plenty does not work as a peasant in constant distress or starvation.

In our district the Government have not taken any steps to improve the fertility of the soil or distribute manures. The Government have not taken any appreciable steps to distribute improved seeds. No publication has been made or sufficient propaganda work undertaken for the purpose.

Q. 74. No steps worth mentioning have been taken by the Government to improve the lands of the agriculturists in this district, takavi loans are granted to the agriculturists only on very rare occasions and are speedily realised.

The wording in section 76 of the Bengal Tenancy Act has been borrowed from the Land Improvement Loans Act. Neither section 76 nor the following sections of the Bengal Tenancy Act are availed of by the landlords or tenants of this district.

A scheme was prepared by late lamented Mr. Peddie for washing of certain villages by red water from the irrigation canal, for improving the land and sanitation of the said villages by driving out Malaria (presumably under the Bengal Agricultural and Sanitary Improvement Act of 1920). But the scheme has not increased the productivity of the soil and had no appreciable effect on the prevalence of Malaria.

No action worth mentioning has been taken in this district under the Bengal Rural Development Act of 1935.

The reasons why the provisions of these Acts have not been extensively taken advantage of are—

(*i*) The tenants are too poor to pay any additional imposition. The landlords are also unable to pay any additional levy.

(*ii*) The tenants and the landlords are not sufficiently aware of the provisions of the Act. There has not been sufficient publicity.

(*iii*) The tenants view with suspicion any new scheme however beneficial, they think that such schemes are prepared only to wring money out of them. Hence propaganda work is necessary.

(*iv*) The work referred to in the above Acts is mainly concerned with irrigation facilities. Provisions for better manuring or distributing improved seeds do not properly come within the purview of the said Acts. These should be done gratis at least to gain the confidence of the tenants.

Q. 75. My Association has no knowledge on this point. Nothing was done in the Midnapore khas mahals.

Q. 76. Salami is realised in khas mahals. So far as my Association is aware, no portion of it is spent in improving the agricultural conditions of the lands.

Q. 77. In the opinion of my Association the land system of Bengal is not responsible for the present uneconomic condition of the raiyats, but the general policy of the Government is, and it is necessary to speak in detail what my Association means.

(1) The policy of Government killed the Indian manufacturer. The East India Company became the administrators of Bengal in 1765. Three years later they issued an order that the manufacture of silk fabrics should be discouraged in Bengal, that the people should produce raw silk in India to be woven in England, that the Indian silk-winders should be made to work in the Company's factories and prohibited from working outside under severe penalties by the authority of Government. The effect of this mandate according to the Select Committee of the House of Commons whose report was submitted in 1783 was to change the whole face of that industrious country in order to render it a field for the produce of crude materials subservient to the manufacturers of Great Britain. That there were various industries in a flourishing state of Bengal before the advent of British occupation cannot be gainsaid. Travellers like Bernier have amply testified to this. Contemporaneous literature also speaks to this. In 1813 when the East India Company's charter was renewed, an enquiry was made and the evidence of eminent witnesses like Warren Hastings of Bengal, Thomas Munro of Madras and Sir John Malsoem of Bombay was taken. They were asked by the House of Commons, not how Indian manufacture could be encouraged but how they should be discouraged to make room for the British manufactures. A new duty was thereafter imposed which killed the Indian manufacture. Henry St. George Tucker himself a Director of the East India Company wrote in 1823 "India is thus reduced from the state of a manufacturing to that of an agricultural country." The prohibitive duties were abolished after they had done their fatal work.

These manufactures must again be revived by protective duties and if necessary, even by bounties. *See* the papers on Indian Manufacture written by Mr. R. C. Dutta on December 20, 1901. *See* also Mill's History of India, Wilson's continuation Book I, Chapter VIII—note.

(2) About the middle of the 19th century railways were introduced in India. Railways are beneficial everywhere and they shorten distances and make journeys cheaper, quicker and easier. In India unfortunately, railways had been constructed by the Government out of the public revenues, or by private companies under guarantee of profit out of the public revenue, and the economic effect of this has not been beneficial. It has been a financial loss to Indians. After deducting all earnings the Government paid a huge amount of the revenues of

India to cover the loss. On the other hand irrigation works which were needed by the people for the protection of their crops were neglected. Less than one-tenth of the amount spent on railways have been spent on irrigation and less than one-tenth of the area of cultivated lands in India is protected by irrigation works.

(3) My Association has already pointed out the annual financial drain from India and from the time of East India Company. A sum representing the food of twenty-five millions of people of India was annually remitted to England without a direct return. Was it possible that under such financial arrangement India could be other than impoverished and famine-stricken? Lord Salisbury who was Secretary of State for India (afterwards Prime Minister of England) wrote in 1876 "so far as it is possible to change the Indian system, it is desirable that the cultivator should pay a smaller proportion of the whole national charge. It is not in itself a thrifty policy to draw the mass of revenue from the rural districts where capital is scarce. The injury is exaggerated in the case of India, where so much of the revenue is extorted without a direct equivalent. As India must be bled, the lancet should be directed to the part where the blood is congested, or at least sufficient, not to those which are already feeble from the want of it." This process of bleeding has left the country poor and the condition of peasants uneconomic.

(4) Another cause for the distressed condition of the raiyats is the appreciation in the value of the rupee. In 1871 one rupee was worth 1*s*. 10¾*d*. The rate began to fall materially in 1878 or 1879 and when the mints were closed in 1892-93 it had gone down to about 1*s*. 2½*d*. The India Government and some of the Provincial Governments got a natural increase in their revenue in consequence of the fall. The prices in rupee rose all round, the prices of good grains rose, profits as estimated by the rupee were increased. Between 1871-73 there was a considerable rise in the price of rice. The rise in price was accompanied by an increase in wages. Then the value of the rupee was fixed at 1*s*. 4*d*. and now not it is 1*s*. 6*d*. When there was rise in prices due to depreciation of rupee, the Bengal agriculturists greatly benefited by it and the Government derived advantage from the increased prosperity of the cultivators.

There is another object to this appreciation of rupee. The millions of agriculturists and labourers in India are indebted to moneylenders and mahajans and the debt is, in many cases, reckoned in rupees and not in grains. To artificially enhance the value of the rupee or to fix the value at the rate to which it has been already artificially raised, is to increase the indebtedness of the cultivators and labourers of India to moneylenders and mahajans. The measure serves to add to the profits of the prosperous class who feed on the distresses of the poor, and to add to the weight of the millstone which the poor and indebted

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classes carry round their necks. When the agriculturist is indebted to the extent of Rs. 100 to the moneylender, the moneylender will claim Rs. 100 although the money now represents a larger quantity of rice or wheat than before. The cultivator, by the sale of the produce of his field, whether it is rice or wheat, will get less in the number of rupees.

My Association may mention that sometime after the Great War when the prices of foodstuffs were abnormally high, the condition of the agriculturists was comparatively well off. Though along with the price of rice the price of other articles will rise and increase the cost of what agriculturists buy, still they have sufficient margin of profit to leave them in a better condition.

All the causes enumerated above should be removed as far as possible to improve the condition of the cultivators. In addition to this, marketing organisations should be formed and better manures, etc., should be made available where practicable.

Q. 78. The average gross income of a raiyat has been calculated at the office of the Land Revenue Commission.

The cultivator has now no other source of income than working as a labourer or a bargadar in respect of other lands. Unfortunately, my Association has no means to ascertain the average income from these sources. It differs greatly according to ability and activity of the cultivator. If his holding is large, his income from other sources is small, as he has to devote himself greatly to his holding. If his holding is small, he has to earn a great deal from other sources to maintain his family. The families of his household also have to work for living.

If by "maintain themselves and their family" is meant "maintain themselves and their family in plenty or good condition" the percentage of such raiyats would not be high. After the economic depression set in, the condition of many raiyats has become deplorable, they are anyhow maintaining themselves and their families.

We have no data to ascertain the number or percentage of cultivating raiyats who are starving, but in the majority of the cases now-a-days their food is not sufficient to afford adequate and proper nourishment to the body.

Q. 79. My Association is unable to answer this question as no sufficient materials are available. If we are allowed to hazard an opinion, the procedure followed in the United Provinces may be adopted.

Q. 80. *Means suggested.*—

(*i*) This is no doubt one of the modes of increasing the income. But such methods should be adopted after great caution. The raiyat is not a thoughtless primitive creature; ignorant of his own interests,

antiquated in his methods of agriculture. As early as 1832 Dr. Wallick in giving the evidence before a Committee of the House of Commons said "The Bengal husbandry, although in many respects extremely simple and primeval in mode and form, yet is not so low as people generally suppose it to be, and I have often found that very sudden innovations in them have never led to any good result. I have known for instance European iron ploughs introduced in Bengal with a view to superseding the extremely tedious and superficial turning of the ground by the common Bengal plough. But what has been the result? That the soil which is extremely superficial has generally received the admixture under the soil which deteriorated it very much." Dr. Voelcker, Consulting Chemist to the Royal Agricultural Society of England, sent out to India in 1899 to enquire into Indian agriculture, submitted a report in which he wrote "At his best the Indian raiyat or cultivator is quite as good as, and in some respects the superior of, the average British farmer................. What does prevent them from growing larger crops is the limited facilities to which they have access, such as the supply of water and manure. But to take the ordinary acts of husbandry nowhere would one find better instances of keeping lands scrupulously clean from weeds, of ingenuity in device of water-raising appliances, of knowledge of soil and their capabilities, as well as the exact time to sow and reap as one would in Indian agriculture and this not at its best alone but at its only level. It is wonderful too, how much is known of rotation, the system of mixed crops and of fallowing."

What is required is to teach a raiyat to make cheaper or better manure or to make better appliances for the supply of water; to make a better selection of seeds or a cheaper method of threshing; and to stop afforestation; to provide pasture land for cattle and arrange for rotation of crops where necessary. The vast exportation of oil-seeds from the country must be stopped, as they provide manure to soil. Cattle manure is good; but a large portion of the cattle dung which would have served as manure is utilised as fuel. This is done from a scarcity firewood. Dr. Voelcker has recorded "As the result of enquiries I feel, I may safely assert, that where the practice of burning dung as fuel prevails among genuine cultivators it arises in 8 cases out of 10 from scarcity of firewood.

(*ii*) This method also should be adopted. As the cultivators have no training except in agriculture, they occupy themselves in slack season by working as labourers; and in cultivation season by working as bargadars. They should, however, be provided with other occupations and given necessary training for the purpose.

(*iii*) It has been already pointed how these industries were stifled. They should be again encouraged and if necessary protection should be given and bounties may also be granted for their encouragement.

It was by these industries as by agricultural occupations that the condition of the inhabitants was so affluent in Hindu and Muhammadan times. Bernier who resided in India for many years during the 17th century speaks of vast quantities of cotton and silk fabrics manufactured by the weavers of India which were shipped annually by the Dutch merchants for the markets of Europe. Millions of Indian artisans found employment and earned an income from weaving these fabrics; and it is scarcely an exaggeration to state that there was hardly a village in India in those days where women did not earn something from spinning and weaving, in addition to what their husbands and sons earned from agriculture and other industries. These industries if revived would again give occupation to millions of men.

(*iv*) My Association has already pointed out the difficulties of collective and co-operative farms. A spirit of co-operation must be fostered before these farms can be brought into existence. It would be looked upon with great suspicion at the outset.

But co-operative marketing organisations may be started; this would exclude capitalists and foreign traders coming in and sharing a portion of the profits which should naturally belong to the cultivators. If the cultivator becomes a sharer of such organisation he would get a portion of the dividend also; he would have a voice in the administration of such organisations and a proper price of his produce would be assured.

(*v*) This may benefit the cultivators but their income will not be increased to any appreciable extent; the cattle possessed by the cultivators are, in the majority of cases, in so wretched a condition that their insurance is not likely and where insurance would be made it will not fetch much money. The cultivators would be unable to pay the premia regularly; they would lose money by forfeiture in many cases. They would not consent to insure their cattle at all.

(*vi*) Crops may be insured to the benefit of the cultivators; but when co-operative society and the cultivator is indebted to the society, the debt is a first charge on the crop, crops are also mortgaged in advance to creditors or capitalists; this greatly minimises profits of the cultivators. Hence this must be stopped.

(*vii*) The cultivators must be trained in thrift and must learn to save; they must be trained to utilise their leisure and spare time; and they must stop spending much in social matters and ceremonial affairs.

(*viii*) Another suggestion is to try to improve their capacity for work by driving out Malaria and other diseases. Sanitary measures would include supply of good drinking water, etc.

Q. 81. Undoubtedly pressure of population is one of the reasons of poverty of agricultural class, though it must be said that some villages

have been decimated by Malaria and sufficient hands are not available for cultivation. A holding one time belongs to one tenant; on his death, it devolves on his numerous heirs who again get large families. So the same land has to maintain a continuously increasing large number of men where it used to maintain one only. As the population increases, profits gradually dwindle away and the misery of the persons living on the same land becomes greater. Migration may reduce the pressure but people are conservative and do not desire to abandon their ancestral homestead unless compelled to do so by circumstances.

In view of the answer given previously about 1/3rd of the present population may be considered to be surplus in respect of the agricultural needs of the country.

Q. 82. *Proposals for relieving the pressure*:—

(*i*) The income from agricultural land should be increased by improved methods of cultivation and extension of cultivation. This increase will maintain some of the surplus population.

(*ii*) Some of the surplus population will have to be provided with other occupations, e.g., industries and manufactures. Development of trades and manufactures must be the primary concern of every Government, as income from this sources is capable of being increased in many ways, whereas a time must come when income from agricultural land would not be capable of further expansion. In order to give impetus to trades and manufactures, it is necessary that the Government should lend its helping hand at the inception. Hence my Association subscribes to the view that the pressure from surplus population should be relieved by directing them to large industries by starting Government-aided factories. Food grains are to be imported for the support of the surplus population from other provinces, if necessary.

Q 83. The gravest defect in the economic organisation of our province is the low purchasing power of the people. The Bengal raiyats are improvident and extravagant. So cheap credit would make matters worse unless the agriculturists are trained in the habits of thrift and saving. Cheap credit is a dangerous thing with those who do not know how to make proper use of the sum borrowed. The village mahajans who want to seize their lands readily grant them money but the agriculturists owing to their extravagance soon run through their money and this is the most potent cause of their growing indebtedness. Their improvidence not only compels them to borrow but also to default in payment of their instalments where such instalments are granted. Agricultural credit nowadays is at a very low ebb owing to the operation of the Bengal Agricultural Debtors Act.

The following suggestions may be made for the improvement of the agricultural credit:—

(1) Some organisations must be started which can finance agriculturists at a very low rate of interest. There are now co-operative

credit societies no doubt, but these have lost or nearly lost the confidence of the people by adopting the methods of moneylenders. The rural credit societies must be piloted by some persons trained in Co-operative methods and the amount granted as loans to agriculturists must not be squandered in the way it is now being done. Some inspecting authority or organisation must be brought into existence who can check extravagance and see that money is spent in productive purpose or money may be advanced to the agriculturists after strictly ascertaining what amount would be requisite for their needs. The money may be advanced piecemeal only when necessity arises. The maximum rate of interest should be fixed. The money thus advanced should be honestly repaid and should not be wiped away by any enactment like the Bengal Agricultural Debtors Act.

(2) The income of the agriculturists should be attempted to be improved by all the methods suggested before.

(3) The Bengal Agricultural Debtors Act is deficient in many respects. The Act should be repealed. In order to wipe away the debts of the agriculturists it would be necessary to survey their present debts and make a composition with the creditors. The amount thus ascertained after composition must be paid off by the State or by the State-aided organisation and the amount thus paid off will be the first charge on the properties of the debtors. The said debt is to be paid off by easy instalments to be fixed after appraisement of the produce of those lands. Future borrowing by the said debtors should be made in the manner mentioned above in paragraph (1).

(4) Agricultural credit will improve by any means which raises the price of the produce. One method would be depreciation in the value of the rupee by at least 2 pence. Another method would be to stop the annual drain of money into England without any direct equivalent.

(5) Fragmentation and subdivision of holding lessen credit and should be avoided. At present there is no efficient organisation for the improvement of agricultural credit.

Q. 84. The Bengal Provincial Banking Enquiry Committee estimated the agricultural indebtedness of Bengal to be one hundred crores. That is also the value of the gross agricultural produce of Bengal. If we estimate the average rate of interest to be 18 per cent. that goes to the mahajans.

This drain can only be stopped by a scheme of composition with the creditors. Some judicial machinery should be set up to examine locally all debts and try to compose with creditors or fix the amount if that is not possible. The present machinery according to the Bengal Agricultural Debtors Act is worse than useless. It has gone far towards the destruction of agricultural credit. A law may be enacted reducing the rate to 6¼ per cent. (just as in the case of rent) in case of all existing

debts (even retrospectively) due from agriculturists; the law is to remain in force so long as the present debts of agriculturists are not paid off. If the creditors in certain cases had realised a considerable rate of interest exceeding 6¼ per cent., further interest will cease to run. The judicial machinery set up must be composed of trained lawyers; where practicable, Munsifs may be empowered to do this work. Appeals are to be provided when the officers fix the amount to be paid. A system of periodical checking by Circle Officers as to the operation of the law as between creditors and debtors should also be provided for. But they should on no account be allowed to interfere with the judiciary.

Q. 85. My Association regrets to observe that the co-operative credit societies have hitherto not been able to tackle the credit problem of the agriculturists. All that they have been able to do is to reduce the rate of interest to some extent. Some societies report that the members are more thrifty than before. So far as this district is concerned, the rate of interest realised by such societies has never been too high. The Midnapore Central Co-operative Bank has about two years ago, reduced its rate of interest further, *i.e.*, so far as it could.

The co-operative societies have not actually benefited the agriculturists to any appreciable extent; they are now being considered in the same light as mahajans. The reason is not far to seek. The co-operative movement can only succeed if the members learn the principle and imbibe the spirit of co-operation. The members are illiterate or almost illiterate agriculturists. Nobody takes care to inculcate in them the spirit of co-operation. They are, by nature, improvident; and their needs have become so great that they do not care for those principles which also seem to be too high for them.

In the district of Midnapore, only about 4 per cent. of the agriculturists are members of the co-operative societies. Only about 1 per cent. of the societies have been able to wipe away the debts of their members which were not large.

Q. 86. My Association is of opinion that Debt Settlement Boards have failed to deal with the problem of agricultural debts. They are not dealing with it; they are laying violent hands on agricultural debts, because they have not the capacity, the intelligence, the training to deal with a particular case. They do whatever they are instructed by their Circle Officers to do. And this they openly avow. If the Circle Officers are to be all in all in the Debt Settlement Boards we do not see why these Boards should exist, for it is as it were the Circle Officer who alone composes the Board. Further the rumour goes and it is not without foundation in many cases that those who compose the Board find in it an instrument for illegal gain. A Board which is entrusted with judicial power must be a failure if it is dishonest, if it has an eye more

to it legal gain than to anything else. As they want the capacity to decide a point judicially they seek occasion wherein they may get some pecuniary benefit, illegal or otherwise, which they regard more as their remuneration for discharging the functions allotted to them. It is reported that they even antedate orders for barring appeals. The problem of agricultural debts requires tact, judiciousness and careful handling. These qualities are wholly wanting in those who compose the Debt Settlement Boards in this district.

The Government has perceived the defects and has tried to implement legislation by rules. Bad enough is legislation by rules, but legislation by circular letters is worse, particularly when the view adumbrated in such letters is manifestly contrary to the Statute. We may mention one circular letter issued by the Joint Secretary to the Government of Bengal of this department on the 19th of May 1938. The letter was addressed to the Collector of Mymensingh and said that a money decree obtained for the money value of the share of crops under any system of adhi, barga or bhag cultivation is a debt within the meaning of the Act. This interpretation is contrary to the statute and it passes our comprehension by what process of reasoning or on what words of the statute this conclusion was reached. No Government has the right by means of circular letters to divert the course of law to a channel which the legislation did not design it to follow. Then there are the letters of the Subdivisional Officers and the instructions of the Circle Officers. The members of the Boards have no other option than to follow those instructions. The members of the Debt Settlement Boards are doing judicial works really under the control and dictation of the administrative officers who have no legal training in matters relating to contract or transfer.

By the Bengal Agricultural Debtors Act extensive judicial powers have been given to the Boards. They are to determine who is an agriculturist; this involves knowledge of the tenancy legislations which are complex in themselves. They are to determine the existence or otherwise of debts which would involve the knowledge of contract, of evidence and of other matters. The law of mortgages, with which they have to deal, occasionally involves very complicated principles of law, e.g., of subrogation, of splitting up of securities, of substituted securities and of marshalling and contribution. Only trained lawyers are fitted to take part in the proceedings. The lawyers are not allowed to appear before the Boards, yet the Boards are vested with ample powers to determine what is often difficult to determine in a Civil Court and trial courts and appellate courts often differ in their estimation of evidence and interpretation of law. Instances may be cited where the Debt Settlement Boards have decided that debts have been entirely paid off without a shred of legal evidence. This is not justice but denial of justice.

If a creditor receiving a notice from a Debt Settlement Board fails to attend he renders himself liable to prosecution under the Indian Penal Code. This is wholly unjustifiable and tryrannical. If a creditor neglects to appear and assert his claims, he suffers the consequence as the debtor may deny his claim altogether or admit it only partially. There is no reason why he should not be allowed to neglect his own interest if he chooses and why the Debt Settlement Boards should set about doing good to people by force.

But the most glaring defect is that persons without any legal training are allowed to stay the hands of the highest tribunals of the land including the Privy Council. It may be presumed that those cases which involve most intricate questions of law are taken to the High Court or the Privy Council and it requires all the legal acumen of the most brilliant lawyers—lawyers who have been trained from their youth in legal subtleties—to decide the points raised one way or the other. It passes our comprehension how those who compose the Boards and who have not the capacity to understand a bit of law and who have to resort to Civil Courts for trial of their own cases relating to contract or transfer and who stand aghast when complicated questions are raised, could be vested with jurisdiction to cripple the power of those very Courts.

Not only Courts, arbitrators appointed under Co-operative Societies Act who cannot by any stretch of language be called courts have been brought within the purview of the Debt Settlement Boards. We do not know where this will stop.

Owing to the operation of the Bengal Agricultural Debtors Act agricultural credit has disappeared altogether. The mahajans in the rural areas who used to keep up the agriculturists by advancing money or grains to them in lean years or seasons and would realise part of the loan either in money or in kind during the harvesting season are not advancing money or grains to the raiyats altogether. The mahajans themselves are resorting to the Debt Settlement Boards thus trying to realise whatever they can get, determined not to pay any further loan in future. This has resulted out of the endeavour of the Debt Settlement Boards to wipe off the debts of the agriculturists forcibly as far as possible. In fact, legislation contrary to the course of natural or economic laws can only result in aggravating misery and disaster amongst mankind.

Two Appellate Tribunals have been set up—ordinary and special. There is often scrambling for jurisdiction, for instance, when an ordinary Board has passed two orders one under section 17 and the other under section 18; one party at once rushes to the Appellate Officer for setting aside the order passed by the Board under section 17 and the other to the Special Appellate Officer for modification of the order under section 18. The Special Appellate Officer would wish that both the questions should be determined by him alone. But the ordinary

Appellate Officer is determined to dispose of the appeal before him. Who should decide the dispute between them? It may be mentioned that there are other defects in the Bengal Agricultural Debtors Act which are too numerous to mention.

Suggestions for improvements have been made in reply to question 84.

In the opinion of my Association the entire Bengal Agricultural Debtors Act should be repealed.

Q. 87. My Association is in favour of establishing agricultural banks throughout the province in preference to Land Mortgage Banks for the benefit of the agriculturists. But these banks should not be established as rivals of co-operative societies or banks. They should be vested with all the powers of the Land Mortgage Banks. The agricultural banks should encourage agriculture by inducing the agriculturists to sow and cultivate various sorts of seedlings for agriculture. They will advance seedlings to the agriculturists whenever they are in need for it. These agricultural banks will take up all the debts of the agriculturists after composition with the creditors and advance systematic loans for financing agriculture at a low rate of interest, the interest and principal or a major portion thereof being realised as soon as the crops are cut and gathered. These agricultural banks must be placed under the direct supervision of the Government at least for some years at the commencement, the Government renouncing control as soon as fit and proper persons are found ready to conduct the business of the banks with profit.

These may also serve as repositories of such grains produced by the agriculturists as are not immediately needed for their expenses. If funds permit, those banks will retain experts who will train agriculturists in improved methods of cultivation and improving the soil. Such banks, to be successful, must be conducted by efficient men. As there are considerable dearth of such men in the mofussal, such banks will have to be established in some selected places at first. Such banks will be conducted on co-operative principles and will supersede the co-operative societies now existing. Part of the loans granted by such banks must necessarily be short-term loans. But the loans taken over from mahajans must be long-term loans.

Q. 88. My Association has learnt with regret that the Land Mortgage Banks are not functioning properly. They are in the same condition as other co-operative banks. In fact since the economic depression, finding that the agriculturists are unable to pay up their short-term loans, the co-operative societies are advancing loans mostly on mortgage of lands. Hence the co-operative societies are individually so many Land Mortgage Banks.

The then Assistant Secretary of the Midnapore Central Co-operative Bank, Ltd., Mr. M. N. Basu, in his reply to the questionnaire issued

by the Bengal Provincial Banking Enquiry Committee advocated the establishment of Land Mortgage Banks as a department of the co-operative banks and pointed out how they may be of any utility to the agriculturists. (*See* Report of the Bengal Provincial Banking Enquiry Committee, Part I, p. 551.) The Provincial Banking Enquiry Committee in its report supported his view by saying that there was hardly any case for a separate Land Mortgage Bank in Bengal. On the other hand if the Central Bank carry on this business there will be certain positive advantages. The most important is economy and efficiency of management, which is not possible for a separate institution as has been pointed out above. Land mortgage loans will be availed of for the present, largely for the repayment of old debts. Thus the volume of business will not at first be very great, although expert staff will have to be maintained, for administering the loans at a considerable cost. If short-terms and intermediate operations are carried on at the same time as the long-term operations these costs will be distributed. But, if a separate institution is started, the only course for minimising the expenses open to it, is to increase the area of its operations with the result that there will be an insufficient control over borrowers, thus nullifying the chief object of a co-operative land mortgage bank, namely, the supply of regulated credit. Besides this, there is an obvious advantage in supplying both short term and long term needs to the same institution. It is by this means alone that a proper check can be kept on borrowing and at the same time the employment of loans for their legitimate purpose can be insured.

The above salutary recommendations of the Banking Enquiry Committee were not adopted and the result has been the birth of some still-born institutions which are almost unable to meet their requirements. Instead of maintaining several institutions, my Association advocates the establishment of agricultural banks which will take up the functions of co-operative credit societies and Land Mortgage Banks.

Q. 89. If it is meant that the machinery available to the landlord for amicable realisation of their dues is costly and cumbrous, my Association does not agree. If it is meant that the machinery available to the landlords for realisation of their dues through court is costly and cumbrous my Association would agree. In fact there is no machinery for prompt realisation of their dues through Court. The present procedure is harassing and expensive to the tenants. In an area, where the record-of-rights has been framed and finally published, my Association recommends that the procedure prescribed by Regulation VIII of 1819 for realisation of patni rents should be adopted with such modifications as may be necessary for prompt realisation of dues from the tenants. All intermediate changes effected after the preparation of record-of-rights between the landlords and tenants should be notified to

the Collector and a maintenance register may be kept for recording the intermediate changes. If this is done no complex question would fall in to be determined between the landlord and tenants in the courts in which the application for realisation of dues would be made. If the proceeding is started at a time when the time of realisation would synchronise with the harvest season there would be prompt realisation of landlord's dues without much hardship on the tenants.

Q. 90. My Association thinks that the procedure adopted for the recovery of rents through the Public Demands Recovery Act is harassing and objectionable. Warrants for attachment of movables, for arrest and proclamation for sale are often issued simultaneously thereby unnecessarily increasing the process fees to a great extent. Thereafter the judgment-debtor is insulted by being brought before court or his movables are attached and sold for a song. The judgment-debtor, to avoid the insult involved and to save the very few essential movables he possesses, has to borrow money at high rates of interest from mahajans and thus place himself in a more precarious position. His door frames, doors, windows, etc., are removed if he cannot pay and the judgment-debtor has often to suffer the rigours of winter probably for no fault of his own. If there has been sale of his property at a very inadequate price any objection that he prefers is often rejected and the rigorous provisions of the Act bar his remedy in the Civil Court. The chief defect lies in the fact that the Certificate Officer himself has to try judicially the objections raised and he is more or less under the impression that all objections however valid to the speedy realisation should be rejected.

Under the Public Demands Recovery Act notices are issued on all judgment-debtors and simultaneous warrants for attachment of movables are issued against each of the judgment-debtors. The result is that each of the judgment-debtors if they are separate has to pay the entire amount for which the certificate is issued, to the distress of all judgment-debtors concerned. The distress is increased if some of them have already paid their shares to the certificate creditor and the certificate is issued for the balance. The persons who have already paid are thus justly made to pay twice over. These are inequitable, unjust and harsh measures and can never be justified.

The sale of immovable property is a more effective method of realisation of dues than the attachment of movable property. This will appear from the Statements XIII and XV compiled at the Land Revenue Commission; whereas less than one per cent. had to be sold for arrears of revenue in temporarily settled estates the percentage of collection in khas mahals was about 94. The collection of rent in the Government khas mahal falls far below the percentage of collection of revenue from the permanently settled estates even in these years of economic depression.

The machinery suggested for the speedy realisation of rents in reply to question 89 may also be availed of by the Government in khas mahal.

Q. 91. My Association does not see any utility for the measure proposed. It is better that an Act or Regulation is allowed to remain intact than to replace it by a new Act unless this is absolutely necessary. The history of the legislation would soon be forgotten and the future generation will have scanty regard for those regulations which have been instrumental in bringing about ordered progress. An edition of the Revenue laws may be brought out and therein the substance of those laws may be stated in a simple form. If any Regulation or Act is complicated that complication only may be removed by an amendment.

Q. 92. There is no Revenue Law or Regulation which operates harshly on tenants; there were some which have been entirely repealed.

Act XI of 1859 operates harshly on landlords. Some latitude should be given to the landlords to pay up their dues. The zamindars of permanently settled estates can get remission of revenue only in very exceptional cases. Several provisions of the Bengal Tenancy Act which circumscribe the power of the landlords also operate harshly on them. Their power of distraint has been taken away. Attachment of agricultural produce is allowed only under very exceptional circumstances. The procedure prescribed for the realisation of rents in case of non-payment of rents is extremely dilatory, while the Government does not allow any extension of time for payment of revenue of a certain kist. The rent for that kist can only be realised after some years have elapsed from that time. The new amendments of the Bengal Tenancy Act have taken away their right of enhancement for ten years. Their right to have the landlords' fee, their right of pre-emption have also been taken away without any compensation. They cannot sue for rent before the expiry though they have to pay their revenue in time. Their interest on the arrears of rent has been reduced though the mahajan can realise 3 or 4 times as much interest as they get. The law relating to usufructuary of nine months from the date of the institution of the previous suit mortgages is inequitable. Subdivisions of holdings have been allowed before on economic units, thus lowering agricultural credit.

Q. 93. The probable economic effect of the Tenancy Amendment Act of 1938 would be as follows:—

(1) The effect of grant of unrestricted transfer of occupancy holdings. The effect of this would be that undesirable persons would come in leading to eternal conflict between landlord and tenant. Even when landlord used to get transfer fees, instances were not rare when raiyats made benami dispositions of property in favour of litigious or factious persons to put the landlord into trouble. The raiyats are proverbially poor and improvident, they will soon lose their lands and all the lands will

go to the mahajans or to a capitalist class who are not *bona fide* husbandmen and cultivation is bound to deteriorate in consequence. It is a principle of sound economics that if the interests of farms conflict with those of the farmers, the latter will have to go. If the transfer is made to another cultivator, he may acquire more than he may cultivate himself, this also leads to deterioration of cultivation. A true peasant is one who remains a peasant. He should not be a middleman for any portion of his holding. If holdings are sold in parts it will lead to minute subdivisions, into parcels of lands not capable of being cultivated. A holding should not deteriorate below an economic unit. By unrestricted transfer new sets of tenants will come in who may not perform their obligation and may endanger security of tenures. When even a mokarari raiyat has to pay landlord's fees there is no reason why an occupancy holder should not.

(2) The right of pre-emption is a corollary to the right given to the raiyat to transfer his holding, when a raiyati right was made transferable by Statute in 1929, the landlord was given a corresponding right so that he may choose whether a transferee should be allowed to be his tenant or not. If the landlord found that the transferee is likely to prejudice the interest of farms or impair the security of tenure the landlord has no other option than to exercise his right of pre-emption. That assured him peace, good-will and co-operation. Now these rights of pre-emption having gone there is likely to be eternal conflict between a landlord and a tenant. The landlord also by exercising his right of pre-emption prevented it from its being used for purposes other than agricultural and in some cases he prevented the holding from deteriorating below an economic unit. The right of pre-emption was a salutary check on indiscriminate and reckless transfer on the part of the improvident and poor raiyat. The landlord's right of pre-emption in case of sale has been recognised to be necessary in Europe for rooting out unethical practices in farming and for improving farms. Now that the agricultural credit is almost nil in the mofussal, raiyats are not getting money and paddy as loan and they would consequently be compelled by necessity to sell off portions of their holdings to meet their necessary expenses. Thus there is likely to be a large number of sales in the near future and many undesirable persons who are not *bona fide* husbandmen would purchase these holdings. The holding will consequently deteriorate as the only other person who could prevent this, namely the landlord has been deprived of his right to do so.

(3) The provisions regarding usufructuary mortgages are not only inequitable but will serve to lower agricultural credit.

(4) The under-raiyats have been given a status almost equal to that of raiyats. This would encourage the raiyats to sub-let their holdings whereas the policy of law should be to discourage sub-letting by a raiyat. The policy that holding should not be sub-let or subdivided

below an economic unit has been adopted in all land legislation in Europe. A true peasant is one who remains a peasant and does not become a middleman by sub-letting his holding. If the under-raiyat allows the land to deteriorate there is no remedy either by the raiyat or by his landlord. The holding will be subdivided below an economic unit and agricultural credit will be further lowered.

My Association has only stated here the likely broad effects of the Act. There are other consequences which will follow from other provisions of the new Act, but they are of minor importance as compared with the results stated above. Hence they are not enumerated.

The figures compiled at the Land Revenue Commission show that the loss of landlord's income owing to the abolition of landlord's fee is about 3½ per cent.

Reply by the Midnapore Zamindari Company, Limited.

Q. 1. The description of the duties and obligations of the zamindars after the Permanent Settlement was concluded, is exhaustive.

The Permanent Settlement with the zamindars did not take away any existing rights from the tenants.

Q. 2. Permanent Settlement did not convey any power to the zamindar to choose his tenants or to regulate the usage of the land to the economic interest of the province. The Permanent Settlement confirmed these powers which the zamindar already had.

Q. 3. The landlords have played a large part in the economic development of the country since the Permanent Settlement. The zamindars encouraged settlers on the land by granting them leases on easy terms and also farmed extensive areas themselves giving facilities for the labourers to settle on the land.

In our own estates much has been and is being done to help tenants to improve their lands by improving irrigation, building bunds, damming streams and otherwise trapping water for use in the dry season. Tenants are encouraged to use improved seed and the services of pedigree bulls for improving tenants' cattle are supplied. Roads have been made and improved, and huts and bazars instituted and encouraged.

The zamindars have encouraged the cultivation of indigo, jute silk and sugarcane.

In addition to the actual development of lands the zamindars have encouraged and contributed materially to the increase of educational and medical facilities for cultivators. They have also gifted lands for religious purposes.

We do not consider that the landlords have failed to perform the functions expected of them after the Permanent Settlement.

Q. 4. It is not correct to say that the Permanent Settlement converted the status of zamindars from collectors of revenue to actual proprietors of the soil. The zamindars were the actual proprietors of the soil before the Permanent Settlement.

Q. 5. The annulment of the Permanent Settlement would be a breach of the solemn pledge given by the East India Company to the zamindars and confirmed by the Crown.

The tenants were not parties to this pledge. It is not true to say that the Permanent Settlement was a measure which permanently crippled the financial resources of the country. The Permanent Settlement ensured the Government receiving a regular income at a low cost of collection.

Q. 6. See reply to question 3.

The large increase in the area brought under cultivation since the Permanent Settlement is due in part to all three of the causes mentioned in the question but mainly to nos. 1 and 3.

Q. 7. See our reply to question 6 and question 3.

Enhancement of rents has played a part in the increase of the rent roll but in our opinion the major part has been played by the industry and good management of the zamindars.

Q. 8. In our opinion the zamindars have not failed to conduct themselves with moderation towards their tenants.

Q. 9. See our replies to questions 7, 6 and 3.

The Permanent Settlement did not impose on zamindars any duties which they have failed to carry out.

The last part of this question does not therefore arise, but we would point out that "absenteeism" is of very recent growth.

Q. 10. We are of opinion that the Permanent Settlement was in the interest of the country economically and consequently for the greatest good of the largest number. The Permanent Settlement has led to a revenue system which is to the benefit of the province.

The Permanent Settlement has not led to a revenue system which has resulted in the advantage of the landlords at the expense of the tenants.

Q. 11. The first ground on which the Permanent Settlement is said to have been assailed is not understood. In any case the figure of 80 per cent. is, as regards the zamindars, imaginary.

Subinfeudation existed before the Permanent Settlement and the blame for its subsequent increase must be laid not at the door of the Permanent Settlement but at that of subsequent legislation.

In our opinion the Permanent Settlement has not made any difference to raiyati rents. We would point out that enhancement of raiyati rents is greater and more frequent in temporarily settled estates than in permanently settled estates.

The statement that the Permanent Settlement has created a system of overlordship over the actual cultivators of the soil, which is harassing and oppressing, must be refuted. The existence of accumulation of arrears of rent shows that the landlords have not acted oppressively.

Q. 12. We do not advocate the abolition of the Permanent Settlement on any or all of the grounds referred to.

Q. 13. (1) We do not advocate the total abolition of the zamindari system.

(2) We do not advocate the cancellation of the Permanent Settlement and substitution of the system of temporary settlement in its place.

(3) We do not advocate the imposition of a tax on agricultural income.

Q. 14-15. In view of our reply to question 13, these two questions do not arise.

Q. 16. We consider that the State purchase of the zamindaris would have a disastrous effect on the social structure of Bengal.

Q. 17. In our opinion, the interests of all tenureholders between the zamindar and raiyats should not be purchased by the State.

Q. 18. We do not know what additional machinery would be required to carry on administration under the changed conditions visualized. We would point out that State management is invariably more expensive than individual management.

Q. 19. We do not think the raiyats prefer to come under Government and pay rent to it direct.

The khas mahal raiyats enjoy no advantages over tenants under the proprietors of permanently settled or temporarily settled estates.

Q. 20. For the first part of this question see our reply to question 11.

We do not consider that the Permanent Settlement encouraged the creation of permanent tenures by zamindars. This was encouraged by subsequent legislation. Such as Patni Regulation, Act VIII of 1819, Act X of 1859, the Bengal Tenancy Act, 1885, and subsequent amendments.

The creation of permanent tenures has had no economic effect on the position of the raiyats.

Q. 21. See our reply to question 16.

Q. 22. If the zamindaris and tenures are purchased by the State, their homesteads and khas lands should be left to the enjoyment of the zamindars or tenureholders.

The ascertainment of the zamindars' and tenureholders' khas land might be made from settlement records, records of subsequent purchases through Courts and Registration offices, and from landlords' returns.

Q. 23. Some such customary rights existed prior to the advent of the British but British legislation greatly amplified the right of occupancy.

Q. 24. In view of our previous answers in connection with the proprietorship of the soil, this question does not arise.

Q. 25. We are not in favour of maintaining or extending the principle of giving occupany rights to under-raiyats. We are in favour of confirming the granting of occupancy rights to the tenant actually cultivating the soil.

Q. 26. (*a*) In the case of a tenant partly cultivating his own land and partly subletting, occupancy rights should continue in respect of that land cultivated by the tenant. The cultivator of the sublet portion should be enabled to purchase the superior right at a market value.

(*b*) The lessee should be permitted to purchase the superior right as suggested in our answer to the first part of the question.

Q. 27. It was not the intention of the Permanent Settlement to give protection to all classes of tenants including non-agriculturists.

We are not in favour of giving occupany rights to non-agricultural tenants.

Q. 28. The statutory rights of the zamindar should persist in land which has been converted to use for non-agricultural purposes.

We do not approve of the State levying any additional tax for such converted holdings.

We would point out that where land has been converted to use for non-agricultural purposes, the State has already levied taxes on the profits of such non-agricultural purposes, e.g., income-tax, cesses, rates, etc.

Q. 29. The number of bargadars and others cultivating on a share of the produce is on the increase.

Among the causes of this increase are (*a*) the economic depression, (*b*) the effects of education, (*c*) the operation of the laws of inheritance, (*d*) Government legislation as exemplified by the Act of 1929.

Q. 30. The fact that the amending Act of 1929 has not given the bargadars any statutory rights has not contributed to the increase in the number of bargadars.

The second and third causes mentioned in the question have contributed to the increase in the number of bargadars.

Q. 31. The area normally held by the bargadar depends on the means of the bargadars, the locality of the land in question and the fertility of the soil.

The majority of bargadars also hold land in raiyati or under-raiyati right.

Q. 32. We do not consider that the right of occupancy should be extended to bargadars.

We do not consider that the bargadars require any protection.

Q. 33. In our opinion, the barga system is economically sound. The second part of this question therefore does not arise.

Q. 34. One of the effects of giving occupancy rights to bargadars would be that land would tend to be kept in khas possession. The zamindars would cultivate the land in their possession and consequently a large number of people now cultivating as bargadars would be thrown out of employment.

Q. 35. A fair proportion of produce payable by bargadars cannot be laid down. It depends on custom, crop, and circumstances.

No maximum limit should be fixed by law.

Q. 36. The wages of agricultural labourers vary from district to district, according to season and crop, and depend on the kind of work required.

The economic position of agricultural labourers compares unfavourably with that of bargadars and under-raiyats.

Q. 37. We think that the unrestricted right of transfer given by the Act of 1929 has led to the passing of considerable areas of raiyati land to non-agriculturists.

The further facilities given by the Act of 1938 increased this tendency.

This will be prejudicial to the interest of the cultivating raiyats as a whole.

We are in favour of restricting transfer to agriculturists only.

We consider that the restriction of transfer to agriculturists only is practicable.

We would suggest that transfers should be registered and the landlord's right of pre-emption should be restored.

Q. 38. The minimum size of an economic holding is from 3 to 5 acres, depending on the locality and the fertility of the soil.

Q. 39. It is a fact that the size of many raiyati holdings is uneconomic.

It is the case that the laws of inheritance, the statutory rights of transfer and the increase of population are all tending to further subdivision and fragmentation of holdings.

Q. 40. In our opinion, consolidation of holdings is desirable for more economic cultivation, but we do not consider it to be practicable except by mutual agreement.

Q. 41. We would give special facilities for exchange by mutual agreement to a cultivator to consolidate his holding. We would point out that consolidation of holdings is being encouraged in our estates at the present time.

Q. 42. We do not consider accumulation of large areas in one particular hand undesirable so long as the hand is that of an agriculturist.

In order to prevent large accumulations in the wrong hands we would suggest that the landlord's right of pre-emption should be restored and we would refer to our reply to question 37.

We would not place any limit on such accumulation provided it was in desirable hands.

The third part of this question does not therefore arise.

Q. 43. We agree that coparcenary is detrimental to good cultivation. We do not see how this evil can be minimised without interfering with the laws of inheritance.

Q. 44. We do not consider that the evil effects of coparcenary can be stopped without making radical changes in the laws of inheritance. Fragmentation could be restricted by legislation for minimum transferable areas, which should not be less than the economic holding.

Q. 45. We do not understand this question.

Q. 46. The answer to this question is "Yes."

Q. 47. It is not our view that the framers of the Permanent Settlement contemplated similar permanency and fixity of the rates of rent either in the case of tenants then existing or in the case of tenants who might subsequently be introduced on the land. We consider that had the framers of the Permanent Settlement contemplated the permanent fixing of the rates of rent, there would have been mention of this in Regulation I of 1793.

Q. 48. In view of our reply to question 47, this question does not arise.

Q. 49. As we do not agree that it was the intention of the framers of the Permanent Settlement that the rents of the tenants then existing

should never be increased, we cannot agree that there is any case for reducing the rents of such tenants in future or retrospectively to the level prevailing at the time of Permanent Settlement.

In any event we consider the suggestion as impracticable.

In our estates any of our tenants who has a grievance has access to our Managers at all times and all cases are sympathetically considered.

Q. 50. In view of our reply to questions 47, 48, and 49, this question does not arise.

Q. 51. We do not consider that it was the intention of the framers of the Permanent Settlement that all future settlement of waste lands should be made at the pargana rates.

The second part of this question therefore does not arise.

Q. 52. The answer to this question is purely a matter of individual opinion.

Q. 53. The majority of rents paid by cultivators cannot be described as "lump" rents.

Rents are fixed mainly in accordance with custom and after consideration of the productivity of the land.

It is not true that in practice the rates differ greatly for lands of similar value in almost every village and estate.

Q. 54. It is not our experience that the poorer and weaker tenants pay higher rents.

Q. 55. We would not recommend the re-adjustment of rents on a uniform basis throughout all parts of the province.

The remainder of this question does not therefore arise.

Q. 56.

Q. 57. We do not consider that rents should be fixed in perpetuity or be alterable according to the money value of the produce and the needs of the State from time to time.

We consider that the rates of rent should be re-examined every 20 to 25 years.

Q. 58. We do not understand how income-tax on profits from agriculture could take the place of rent, which is payable to the landlord and not to the State.

The second part of this question does not therefore arise.

Q. 59. The Bengal Tenancy Act leaves too much to the discretion of Settlement Officers and Revenue Officers.

Q. 60. Fluvial action is an act of nature and its benefit therefore should go to both landlord and tenant.

We do not object to enhancement as a result of fluvial action.

It is not fair that a particular tenant should get all the benefit of the improvement and the landlord nothing.

Q. 61. We do object on principle to enhancement on account of rise in prices, subject to our reply to the last part of question 57.

Q. 62. If holdings were all of an economic size as we recommend, this question would not arise.

Q. 63. If there were provisions in the law for a reduction of rent on the ground of prevailing rates, we should regard it as essential that there should also be provisions for enhancement of rent on the same ground.

It is not usual for the raiyat to improve land at his own expense and salami is not advance rent. The second part of this question therefore does not arise.

Q. 64. There should not be a provision of law for reducing high contractual rents, or for limiting rents for new settlements.

Q. 65. The chief defect in Chapter X of the Bengal Tenancy Act is that there is no provision for an appeal from the Revenue Officer to a Civil Court in connection with the settlement of fair rents. Apart from this, in our opinion, the procedure is not bad.

Q. 66. We know of no cases where the settlement of fair rents in private estates under section 105 of the Bengal Tenancy Act, resulted in unfair enhancements.

The second part of this question therefore does not arise.

Q. 67. It is true that revisional settlements are usually made with the primary object of enhancing revenue, and this is particularly so in Government estates.

Q. 68. In nearly all Government estates, enhancements have obviously been unfair.

Q. 69. It was in our opinion a mistake on the part of the Government to go on with any revisional settlement and to enhance the rent of any raiyat during the years when prices were steadily going down.

This policy has led to legitimate grievances on the part of tenants of Government khas mahal estates.

Q. 70. We cannot answer this question which should be answered by Government khas mahal officers.

Q. 71. In our experience, many applications were made for remission in temporarily settled estates during the slump period and on account of calamities from floods.

No remission, as far as we know, was allowed. No remission has been granted by Government to zamindars in permanently settled estates.

Q. 72. The answer to this must depend on the locality and the nature of the soil.

Q. 73. It is understood that the productivity of the soil in Bengal is generally on the decrease.

One reason is the present day necessity of maintaining the rivers and rivulets of the delta in fixed courses.

Government have not noticeably taken any steps to improve the fertility of the soil.

Q. 74. The provisions of the Acts referred to have not been taken advantage of by agriculturists to any extent.

The cultivators are ignorant of the provisions of these acts, which are not applied with any vigour.

Q. 75-76. We cannot answer this question which should be answered by Government khas mahal officers.

Q. 77. In our opinion the general policy of Government has been to a large extent, responsible for the present uneconomic condition of the raiyats. For example—

(1) The frequent enhancement of rent by Government in khas mahal estates.

(2) The recovery from tenants of expensive settlement costs.

(3) The heavy cost of litigation in courts.

(4) Some of the amendments to the Bengal Tenancy Act and in particular those amendments allowing unrestricted transfer and the abolition of transfer fee and landlord's right of pre-emption (see our answer to question 37).

(5) The Bengal Agricultural Debtors Act and the setting up of Debt Settlement Boards, which have greatly reduced the supply of agricultural credit.

The modifications we can suggest are—

(1) The restoration of a nominal transfer fee and the landlord's right of pre-emption.

(2) The abolition of unrestricted right to transfer.

(3) The revision of the Bengal Agricultural Debtors Act and modification of the constitution and powers of the Debt Settlement Boards.

(4) The reduction of the costs of litigation and of settlement costs.

Q. 78. No reply.

Q. 79. No reply.

Q. 80. The five suggested methods for increasing the income of the cultivator are good but in our opinion are not practicable, at any rate, by passing legislation.

We would suggest that Government should establish centres where the raiyats can obtain good seed at a reasonable cost and that there should be an extension of Government farms.

Q. 81. In our districts and taking the whole area into consideration, it cannot be said that the pressure of population on land is one of the main reasons for the poverty of the agriculturists.

We are unable to reply to the second part of this question.

Q. 82. No reply.

Q. 83-84. We know of no efficient Government organisation which exists for the improvement of agricultural credit in Bengal.

We do not know whether 25 per cent. of the gross produce of the land goes to the mahajan as interest alone. We would point out, however, that the mahajan is not an unmitigated evil. He has in the past provided the only means of rural credit and his failure to do so at present is largely due to the operations of the Debt Settlement Boards.

In our opinion, mahajans should be licensed and their rate of interest regulated.

Q. 85. In our opinion, co-operative credit societies have not succeeded in tackling the credit problem of the agriculturist.

The rate of interest realised by the co-operative societies from the agriculturists is too high. The co-operative societies have not actually benefited the agriculturists to any appreciable extent.

The reasons for their failure are, their excessive caution in making loans, the making of collective loans and the fixing of too high rates of interest.

An insignificant percentage of the agriculturists are members of such societies.

We do not know what percentage of the co-operative societies have actually succeeded in wiping out the debts of their members, but it must be insignificant.

Q. 86. The Debt Settlement Boards have not succeeded in dealing with the problem of agricultural debts in the right way.

The many unjust awards of these Boards encourage debtors to incur liabilities under the impression that they will be given a very long time in which to pay a part of their debts and that they will be let off the balance. Many of the members are entirely uneducated men with no knowledge of law.

We would suggest that the constitution of the Boards should be remodelled entirely and that they should have a paid President who should be conversant with the law and who should not be a debtor himself. The powers of the Boards should be completely revised and they should be competent to deal only with purely agricultural debts not including rent.

Q. 87. The banks and societies already established have obtained little support from true agriculturists.

The cultivator fears the rules and regulations which he cannot understand. We would refer here to our reply to questions 83-84.

Q. 88. No reply.

Q. 89. It is a fact that the machinery available to landlords for prompt realisation of their dues is too costly and cumbrous.

It is unnecessarily harassing and expensive to the tenants.

We would suggest the following improvements:—

(1) The service of notifications and summonses should be speeded up by using registered postcards for this purpose.

(2) Court fees should be reduced.

(3) The execution of decrees should be speeded up.

(4) There should be better control over process servers.

(5) Local courts should be established on the lines of union boards with power to deal with amounts up to Rs. 100.

(6) There should be "sunset" law power for landlords, such as is now applied under the revenue laws to zamindar.

(7) Debt Settlement Boards as at present constituted should be abolished.

(8) Symbólical possession should be considered physical possession and vigorous action taken against trespassers in this connection.

(9) Vigorous action should be taken against corruption in the Courts.

Q. 90. The recovery of rents through the "Public Demands Recovery Act" is not harassing and objectionable so long as average crops are obtained. See our reply to question 89.

Q. 91. There should be a simple Act embodying the main provisions of Revenue Regulations and Acts passed subsequent to 1793.

Q. 92. Section 14 of Act XI of 1859 should be modified.

Notice should be first given to the mortgagees to deposit the defaulted amount. If not deposited by them, then notice should be given to the co-sharer landlords that a co-sharer paying the defaulted amount will be considered as a purchaser, not subject to encumbrances.

What is termed the "sunset" law is probably the most harsh; a zamindar must pay his revenue at a stipulated time and yet he is not armed with any powers to demand rents from his tenants by the same means to meet such revenue. Section 14 of the Revenue Sale Law acts harshly on the zamindar having separate accounts within his tauzi. A small zamindar owning a very minute share in a tauzi carrying a separate revenue account may default his revenue and the share is put up to revenue sale, if purchased it is done so with all encumbrances, and this alone very often prevents any of the co-sharer zamindars from bidding at the sale. If the property is not sold after due time the whole of the separate accounts are closed and for the default of one insignificant share of unpaid revenue the whole tauzi is put up for sale, and to protect their own interests the non-defaulting zamindars or landlords have to deposit the defaulted amount and then realise what was originally a debt to Government at their own expense.

We suggest that the law be amended so that a defaulting share can be put up to sale free from all encumbrances and that should the sale proceeds not equal the default the remaining shareholders be called upon to contribute the balance.

Tenures and under-tenures should not be affected by the sale of superior rights in executions under the Revenue Law and Patni Acts.

Q. 93. One of the effects of the Tenancy Act Amendment of 1938 will be that lands will pass into the hands of non-agriculturists and tenants will become bargadars. In the cases of estates lying near rivers, expenses will be heavily increased by section 86A and litigation generally will be increased.

The loss of income by zamindars owing to the abolition of the transfer fee will be small compared to the damage which will be done to their estates by the influx of undesirable middlemen and land speculators who have not the best interest of the land at heart.

Oral evidence of the Midnapore Zamindari Company, Limited, on 7th March 1939.

PRESENT ON BEHALF OF THE COMPANY.

(1) Mr. David Somerville;

(2) Mr. Andrew Somerville;

(3) Mr. G. W. Woodgates; and

(4) Mr. Keith Smith.

In reply to the Chairman, Mr. Somerville said that the Midnapore Zamindari Company controls an area of 15 lakhs of acres. The Company has rights as a proprietor, patnidar, darpatnidar and other degrees of under-permanent tenures, tenureholder, under-tenureholder, raiyat and under-raiyat and is also a proprietor and a tenant under Government. The Company's earliest interests were leased and purchased at a time shortly after the Permanent Settlement. Our records show that prior to the Permanent Settlement these interests were owned by Europeans, that they in their turn, as private owners, had leased or purchased from the previous proprietors, whose proprietorship of some of these interests is shown by our records to have existed even at the beginning of the 18th century. Most purchases took place after 1819 when the Patni Regulation was enacted. The Company has recently purchased some zamindari property and some tenures. Generally speaking, the price paid for zamindari property was 20 years' purchase. Zamindari property is not however as good an investment as it used to be, although the Company previously did well. The Midnapore Zamindari Company is a public Company with shareholders: recently its dividends have gone down very much. Last year the dividend was 4½ per cent., in the previous years 3½ per cent. and in 1936, 2 per cent. and in the three years before that there was no dividend. The reason for the decreased dividend is partly that tenants are withholding their rents owing to political propaganda and partly that the cost of realisation of rents has increased. The Company is experiencing great difficulty in realising rents owing to the present attitude of the tenants and the defects in the Tenancy Legislation. The Civil Court procedure is very cumbrous and has tended to become even more dilatory. This is due partly to the tenants' unwillingness to pay and partly to the practice of the Courts. The Company has never had certificate procedure. The service of Civil Court notices and summons should be expedited. It would be quite simple to serve notices by registered post cards but this is not done. The Courts are mechanical and the calibre of the Civil Court staff is defective.

Execution of decrees should also be expedited. It is often the case that when a jote or a holding is purchased the tenant refuses to leave the land and the court only gives a symbolical possession. Mr. Somerville suggested that symbolical possession should be considered to be physical possession and that trespassers should be proceeded against summarily. At present it is necessary to file ejectment suits which may take two years to conclude, while the tenants enjoy the the crop without paying any rent meanwhile.

Practically all the Company's tenants are in four years' arrears of rent; the collection is not more than 25 per cent. of the current demand, and most current rent is in arrears. Last year almost the entire collection consisted of arrear rents. Taking both arrear and current rents, the collection was between 85 per cent. and 90 per cent. of the current demand.

The Company's rates of rent are very reasonable: while the average rate of rent in Bengal is Rs. 3 per acre, the Company's average works out at Rs. 2-5-2.

He agreed that many of the Company's direct tenants have sublet, but was unable to give an accurate estimate of their number. He thought that 45—50 per cent. might not be actual cultivators. The tendency now is for occupancy raiyats to sell their lands to the highest bidder or to sublet. They are in effect cashing in on their occupancy rights. The under-raiyats pay 2 or 3 times the raiyati rate of rent. He considered that this is a full economic rent. In some cases it is higher and might operate harshly if the harvest is bad.

The number of bargadars is increasing, but he considered that the system is economically sound. The Company has some lands which are cultivated by bargadars. The Company pays one-half of the cost of seeds and the bargadars pay the other half and supply the bullocks and ploughs. The Company takes half the crop but it is very difficult to realise the full half share because the bargadars are very astute and often remove part of the crop even sometimes before it is ripe. The Company usually sells their share of the standing crop. The barga system is beneficial to the community as a whole, as well as to the bargadars, because if there is a failure of crop he has nothing to pay. Mr. Somerville agreed that the outturn of rice in China and Japan generally is much higher than that in Bengal, but thought it would not act as a stimulus to greater production if the bargadars were given the rights of tenants and obtained the whole value of any increase in yield from improvements. Generally speaking, cultivators are too indolent to make improvements, and he thought that cultivation by bargadars is just as good as that by cultivators with occupancy rights. He mentioned that bargadars under the Company often buy the Company's share of the crop.

Tenants do not look after their lands as they used to, and one reason for the poor yield is that the majority use the poorest grain of their crops for seed, adulterated and mixed varieties of paddy seed which ripen at different times. The Company has done a lot to improve crops. Sugarcane, including a new strain of Coimbatore, jute, fodder crops and good seed have been introduced. Mr. Somerville had also tried to introduce an early maturing strain of paddy called Shaity and Jamura which ripens in about 70 days as against the normal period of 90 days. This has become necessary in some areas on account of successive floods. He asked the Government Farm at Dacca to supply him with 500 maunds of seed but after considerable delay he was only offered two maunds.

As regards improvements made by the Company he stated that most of the roads, canals and bunds within its property have been constructed by the Company. He also mentioned that the Company since 1906 has brought 40,000 to 50,000 acres under cultivation and gave the land rent-free to tenants for three years (*cf.* Nadia Gazetteer, Chapter XVI; Gazetteer, village Kapasdanga and Settlement Report of Char Sarkarpara-Naluapara). The Company has made calculations regarding the cost of cultivation and the outturn, and he undertook to supply the figures[1].

The Company has received no complaints regarding the realisation of abwabs and it would certainly take action against any of their agents who is found to have taken abwabs. Some years ago, the Company issued notices directing the tenants not to pay such demands; but the practice is ingrained in the country, and exists in Government estates as well as in Civil Courts and Debt Settlement Boards.

As regards the reply to questions 57 and 61, he explained that the Company does not oppose adjustments of rent on account of change in prices of staple food crops but considered that such adjustments should only be made after periods of 25 years.

If the Permanent Settlement is abolished, compensation should be paid to landlords and tenureholders at the market value of their property. The Company could now get 18 to 20 times the net profit of its zamindari property.

In reply to the Maharajadhiraja Bahadur of Burdwan, he said that the Midnapore Zamindari Company was formed in 1900 to 1902. He agreed that the Bengal Agricultural Debtors Act has greatly handicapped landlords in the recovery of rents. He thought that at the time of the Permanent Settlment, the tenants had no right of transfer and certainly they had no rights to minerals.

[1]Figures supplied by the Company have been printed after the evidence.

As regards reply to question 11, he said that subinfeudation is the result of Tenancy Legislation, commencing with the Rent Act of 1859. Landlords are now paying income-tax on markets and on any other non-agricultural income. The collection of cess is expensive and often has to be recovered through the Civil Court. Part of the cess paid by landlords is not recovered from the tenants. The imposition of a tax on agricultural income would merely add to the landlords' difficulties. Government is already realising a tax on land used for non-agricultural purposes: to assess agricultural lands would be a double imposition.

As regards the reply to questions 57 to 61, he said that there should be no interference with the fair rent fixed for 25 years. After that there should be an enhancement or a reduction according to the level of prices. He was in favour of altering the present law which limits the period to 15 years.

In reply to question 73, he agreed that Government has in the past paid little attention to the maintenance of rivers but he thought that it would be too expensive an undertaking for landlords to maintain them if such powers were given.

As regards the reply to question 89, he said that Civil Court process servers generally demand an unauthorised fee for the execution of processes and will not carry out their duty unless it is paid. Landlords have also to pay the Collectorate staff whenever they deposit revenue, withdraw money from the Collectorate, or apply for certified copies, etc.

In reply to Mr. B. K. Roy Chowdhury, he said that when he proposed to confine the occupancy right to actual cultivators he included persons who cultivate through bargadars or hired labour. He thought that a great mistake of Tenancy Legislation has been that occupancy rights have been attached to individuals instead of to the land. If a raiyat sublet part of his holding, he would make him a tenureholder in respect of that area.

In reply to question interposed by Sir F. A. Sachse, he said that there is no need to protect the bargadars. A good bargadar is always in demand and is never changed. He would not give the bargadars occupancy rights, because they would merely be given some thing which had a saleable value and would undoubtedly sell their rights.

Continuing to Mr. B. K. Roy Chowdhury, he said he would define an agriculturist as a person who actually cultivates, either himself, or through a bargadar or by hired labour. He agreed that if transfer is restricted to agriculturists only, the limited number of agriculturists might cause a decrease in the value of land; but he was prepared to agree to any measure which would be for the benefit of agriculture.

In reply to the Chairman, he explained that he wanted the occupancy right to be attached to the land instead of to a tenant whether he be a raiyat or an under-raiyat; but occupancy rights should not be given to bargadars because the land which they cultivate is the khas lands of their landlords and no question could arise of their acquiring occupancy rights in it because bargadars are in effect only hired labourers. The bargadars prefer the present system.

Their number has increased because of the economic depression and other reasons, such as family disputes arising out of laws of inheritance, lack of credit now prevalent, cashing-in by land speculators and non-agriculturists resulting from recent amendments to the Bengal Tenancy Act and heavy costs of litigation, but it is possible for bargadars who have lost their raiyati lands to collect sufficient capital to take re-settlement. He did not feel any apprehension about the extension of the barga system.

In reply to Dr. Mookerjee, he said that the Company has lands in Midnapore, Nadia, Rajshahi, Malda, Pabna, Murshidabad, Jessore, Singhbhum and Manbhum. The Company has proprietary rights, patnis, durpatnis, se-patnis and tenures, etc. The tendency to withhold rents is general and is not confined to any particular area. The reason for this is not to be found in the low prices now prevailing. Civil Courts' dilatoriness in rent suits and political propaganda are responsible. The raiyats are taking a lot out of the land but are putting nothing back. There has been little change in the Company's rate of rent since the Permanent Settlement whereas prices have greatly increased since then. He mentioned the case of some tenants who are holding at 5 or 6 annas a bigha but are in arrears of 4 years' rent. Since the Permanent Settlement the price of paddy has increased 4 or 5 times. He was definite that the fall in prices is not the reason that tenants are now withholding rents.

In reply to the Chairman, he explained that his position was that prices now are much the same as those which prevailed before the war. The rent is also practically the same. Prices went up greatly after the war and have now dropped to the pre-war level. If tenants could pay their rents regularly formerly, there is no reason why they should not do so now.

Continuing to Dr. Mookerjee, he said that the Company have a number of farms but they are purposely not managed by expensive scientific methods but on the same lines as ordinary tenants could cultivate. Improved seeds have been introduced by the Company in order to increase the outturn. He could not say off hand what is the amount of expenditure on improvements. There is no fixed sum in the budget but the Managers have a free hand with the sanction of the Directors. He could, however, give the sums[1] which have actually been spent.

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[1]Figures supplied by the Company have been printed after the evidence.

In advocating adjustments of rent after 25 years, his object was not simply to get enhancements of rent: if prices have fallen after that period, a reduction of rent would be admissible. Section 38 of the Bengal Tenancy Act at present provides for reduction on this ground.

In the most recent purchase of zamindari property by the Company, the price was fixed at 18 times the net profit. Generally speaking, the rate has been 18 to 20 times the net profit. Arrears of cess are already heavy and their collection is worse than that of rent. He mentioned the case of some rent-free tenants who were unwilling to pay very small amounts of cess. He suggested that it is only reasonable for landlords to receive a percentage of their collection of cess in the same way that persons who collect income-tax get a commission on collections.

In reply to Sir F. A. Sachse, he agreed that a rebate of 5 per cent. is now given to zamindars who pay their cesses punctually but that is not the same thing as a regular commission. The landlords' loss from uncollectable cesses, and the interest on cesses paid but not promptly realised under the present dilatory laws and the heavy litigation costs result in a loss which certainly is not covered by the small rebate of 5 per cent.

Continuing to Dr. Mookerjee, he said as regards the last sentence of the reply to question 11, that accumulation of arrears of rent shows that landlords have exercised leniency towards their tenants. He did not agree that khas mahal management is cheaper than the management of the private landlords. He cited as a parallel case the fact that the Eastern Bengal Railway has been made over to private management because it is cheaper than State management.

In reply to Khan Bahadur Hashem Ali Khan, he said that the gross collection last year was Rs. 29,11,590, of which Government revenue, rents to superior interests and cess amounted to Rs. 13,03,068. He had no figure to show the percentage of revenue derived from zamindari properties, but the greater part of the Company's income is from patnis and tenures. He said it is not a fact that when the tenants are in four year's arrears, the Company only collects one year's rent and keeps the remainder in reserve. The Company presses for as much rent as it can get, but if a tenant will only pay one year's rent that is accepted in order to save him from a civil suit. The Company further encourages their tenants to keep up to date with their rents by allowing remission of interest. It is not true that any discrimination is made between good and refractory tenants. The Company has never applied for certificate powers because it knew that they would not be granted to them. Generally such powers are not granted to patnidars and tenureholders. Had the Company realised 4 years' rent at a time, public opinion would certainly have regarded that as oppressive. From 1903 to 1929,

the rate of dividend paid by the Company was 10 per cent., 1930 was 6 per cent. The total cost of administration, including collection, management, litigation, etc., last year amounts to about Rs. 10 lakhs. The annual demand last year was Rs. 22·64 lakhs. He could not say what is the comparative cost of khas mahal management. The latest purchase of zamindari property was after 1930 and took place in a Court auction sale. He did not agree that the value of the property has decreased. The Company has never defaulted in payment of revenue to Government. He thought it incorrect to say that when prices rose abnormally after the war many tenants purchased lands with borrowed money in the expectation of repaying their debts and making a profit. The number of sales has become much more extensive after the Act of 1929. It is not true to say that the indigo planters treated their tenants oppressively. Many tenants say even now that they wish indigo cultivation was still in existence. Rupees 2-5-2 is the average rent for all persons holding direct under the Company. The tenants holding under them pay two to three times the Company's rate. The reason that the condition of the cultivators is deteriorating is that raiyats are selling their lands to the highest bidders and the purchasers are rack renting the under-tenants. The amended Tenancy Act and the Bengal Agricultural Debtors Act are killing credit. He regarded the mahajans as being not an unmitigated evil. They have done much in the past to supply agricultural credit and seeds. He thought that the condition of the tenants has not materially altered for the worse and that they are not being compelled by sheer necessity to sell their lands. They are rather capitalising their free right of transfer. He mentioned that in Midnapore when the tenants were recorded as having rights in trees, they cut down valuable trees right and left simply because they had been given a saleable asset. He thought that it would be of no benefit to the tenants if the State purchases the zamindaris and tenures. The tenants in khas mahals are worse off than those in permanently settled areas. He mentioned that in the estates in Patkabari Concern in Nadia which the Company holds under Government, the rent roll is Rs. 22,000 whereas the average collection for the last four years is Rs. 16,000 and Government revenue Rs. 16,750. Collection charges amount to Rs. 3,000. These estates are thus working at a loss. In the temporarily settled estates in the same concern in Murshidabad, the rent roll is Rs. 23,000 average collection Rs. 19,000; Government revenue Rs. 20,000 and the collection expenses Rs. 3,900. He agreed that the Company need not take settlement where they hold direct under Government and said that in future they did not intend to take such unfair settlements.

In reply to Khan Bahadur A. Momin, he said that before the Company was formed its predecessors purchased land and took ijaras for the cultivation of indigo. When indigo failed, the Company started a

zamindari concern. It is a public Company. Marwaris are not the biggest shareholders. The Company's authorised capital is Rs. 125 lakhs. The price of shares has stood at over Rs. 200 per share, but the present price is Rs. 75. He did not agree that the present price being Rs. 75, ten times the net profits would be fair compensation: the Company has purchased its property at 18 to 20 times the net profit. The share value has no relation to the value of the property, because if rent collections are made easier by removing the dilatoriness of the Courts the value of the shares would considerably appreciate. The present low level of the shares is entirely due to the market having discounted the disastrous effects of the floods in the Northern Division and the drought in the Southern Division this year, and even more so on account of rent Tenancy Legislation and political propaganda, not to mention the slump conditions of the market owing to the unsettled situation in Europe. He agreed that if propaganda against the landlords and rent suits increase, it will be more difficult for the landlords to collect their rents. Zamindari management will become less profitable if propaganda increases as rent suits will increase and raiyats will become impoverished. The Company has never collected abwabs and has always discouraged them. Transfer fees have been a comparatively small item. The loss of the right of pre-emption is much more serious, because the landlord has now no control over purchasers and cannot prevent extensive purchases by non-agriculturists.

The char area in the Company's possession is all in the Northern Division, i.e., mostly in Murshidabad, Nadia, Malda and Rajshahi. In our Midnapore estates, the soil of the higher lands is less fertile than in our Northern estates. The average rate of Rs. 2-5-2 has been calculated over the whole area of the Company's property. He agreed that the high rents paid by under-raiyats is chiefly on account of higher lands not being subject to floods.

The extension of indigo cultivation was certainly for the benefit of tenants as the tenants were financed by the indigo planters and the indigo leaves and roots fertilised the soil. It is not correct to say that the construction of roads, embankments, etc., had all been carried out during the days of indigo cultivation. Improvements are still being made but the imposition of cess in the 1880's took away the landlords' incentive to construct roads. The Company has, however, constructed several roads quite recently irrespective of the District Board's help and it is still spending money on providing irrigation facilities. He did not agree that the Company has done little work of improvement as a zamindar, as distinguished from an indigo concern.

He agreed that zamindars have raised their rental mainly through the extension of cultivation. He said he was not in a position to say whether other landlords had helped tenants with capital, but thought they must have as it was a general practice in calamities. Much of

Nadia district was originally covered with water and jungle. The Company's property there extends along the river but there is also property in land. The Company had its own draft cattle and expended large sums in bringing shrub and jhow jungle under cultivation. In 1906, 50,000 to 60,000 acres of land were covered with jhow jungle. His predecessor, Mr. Crawford, brought in tenants from Faridpur and elsewhere encouraging them to clear the jungle by giving them the land rent-free for three or four years (*cf.* Settlement Final Report of 1921). The record-of-rights shows that in 1910, the fallow area was 1,900 acres, jungle 13,500 acres, and sand and water 4,000 acres; in 1929, the fallow area was 49 acres and jungle, 12 acres. The clearing of this jungle was entirely due to the industry of the Company.'

He did not consider that the abolition of the Permanent Settlement would benefit the tenants. One reason is that they are not subject to revisional settlements in permanently settled areas and the average rate of rents are lower than they are in khas mahals. He did not think it would be beneficial either to the State or agriculture even if the landlords were compensated adequately and Government proceeds to spend sufficient money on agricultural improvements and maintenance of religious, scholastic, etc., institutions and grants now maintained by landlords, as improvements are and can be further improved with Government's co-operation under the present zamindari system, for he regarded development of agriculture as the main consideration. Tenancy Legislation has dealt too much with the rights of different classes of tenants and has ignored agricultural prosperity.

There is no reason why agricultural improvements should not be carried out by the Government under the present system of land tenure. If the landlords and tenureholders were bought out and certificate procedure were reintroduced, there might be a decrease in litigation, but he thought that it was problematic.

If a raiyat sublets he should become a tenureholder in respect of the area sublet, because he has ceased to be an agriculturist. An under-raiyat should have facilities of buying the superior rights of his landlords up to the permanent tenureholder.

There is no pressure of population on the land in the Company's properties.

He agreed that restriction on transfer may lead to a decrease in the value of raiyati holdings, but even so he thought it would be in the interests of agriculture and consequently of the raiyats themselves to restrict transfer.

In reply to Khan Bahadur M. Hossain, he agreed that the number of uneconomic holdings is increasing. The area of an economic holding is about 5 acres. He could not give any figures to show the percentage of economic and uneconomic holdings. It would be difficult

to say if the increase in the number of uneconomic holding is one reason why tenants are finding it difficult to pay rent.

Even though restriction on transfer might lead to a decrease in the value of land still transfer may be under present conditions unavoidable because agricultural credit has largely disappeared. He did not agree that raiyats are unwilling to sell except as a last measure; at any rate, this was not true after the Amending Act of 1938. Tenants do sell their land to raise money for social requirements such as the cost of marriages and other ceremonies. During the boom period they lived at a very high standard, and now they have been forced to cut down their standard of living. Since 1938, a number of occupancy raiyats have been selling their lands because they are getting an increased price, i.e., they have not to pay the landlords' transfer fees. He mentioned a case where a tenant applied to the Company for settlement, and sold the land as soon as settlement was granted. After that he might buy more land and resell it.

The grant of occupancy right would confer no benefit on the bargadars. The result would be that they would be given a saleable right which they would sell, and this would merely lead to a vicious circle. The bargadars want the existing system. As a result of the Bengal Agricultural Debtors Act, rural credit has dried up and the mahajans are holding out. People cannot get money. Most landlords would agree to let bargadars have occupancy rights if they were untransferable. But the result under the present laws would only be that they would sell their rights. The present system is beneficial to the bargadars when drought or floods occur.

He agreed that zamindars were only given 10 per cent. collection charges at the time of Permanent Settlement. The Company's cost of collection might appear high, but like other zamindars they had covered the cost by extending cultivation; otherwise they could not have managed. Cultivation extended rapidly after the Permanent Settlement and within 40 years the country was greatly changed. A number of the Company's temporarily settled estates under the Government are working at a loss. The reason of this is that there is no appeal to the Civil Courts against unfair assessments made under Chapter X of the Bengal Tenancy Act. Such an appeal should lie from the order of the Director of Land Records.

The main criticism of Civil Court procedure is that the Courts do not follow the provisions of law which provide for speeding up the procedure. Nothing whatever has been done by the amended legislation to remove corrupt practices in the Courts.

He undertook to supply figures[1] regarding the amounts spent on improvements by the Company.

[1]Figures supplied by the Company are printed after the evidence.

Possibly there might be views contrary to the Company's view that the Permanent Settlement merely confirmed the zamindars in their proprietary rights. He mentioned that when the zamindars had power to choose chowkidars they must surely have had powers to choose tenants. As stated previously, the Company's records show that their predecessors prior to the Permanent Settlement were the proprietors.

As regards the reply to question 10, he said that if it is true that 80 per cent. of the assets are intercepted by landlords and tenure-holders, one would have expected them to be altogether safe from revenue sales, whereas in fact many estates are sold every year. He agreed that it was ruinous for the tenants to withhold their rents and to fall into arrears. If the Company were to sue every year and other zamindars followed suit, public opinion would regard such a policy as oppressive, and cost of litigation would land the tenants in greater difficulties. He thought it is better to await the result of the new legislation allowing landlords to sue for one to four years' rents.

The Company is already paying a high percentage of its assets as revenue. If a tax on agricultural income is also imposed, it would be difficult for the Company to manage and it would be an unjustifiable imposition in addition to various existing cesses. All legislation has tended to reduce the powers of the zamindars.

As regards restoring the landlord's right of pre-emption, he said that the Company in the past only exercised this right in a very few cases in order to keep out undesirable tenants.

As regards the reply to question 44, he explained that his object was not to insist on the transfer of areas which are themselves economic in size, but he would provide that if the area of any holding is less than the economic size then the whole holding must be transferred and not a portion of it.

He did not agree that the benefit arising from fluvial action should go to the tenants alone. It is equitable that it should be shared between the tenant and the landlord.

In reply to Sir Frederic Sachse, he said that the Company's collecting agents are paid between Rs. 15 and Rs. 35 in addition to "chakran" lands. Those who are paid on a higher scale have tahsils of about Rs. 20,000 and those on lower pay have tahsils between Rs. 6,000 and Rs. 8,000. There are also Inspectors above the collecting agents. He thought that the payment of abwabs would be greatly curtailed by introducing the money order system generally. The Company would not object to this, but would have greater control over its employees. He agreed it might be necessary for tenants to pay something to the post office clerks for writing out money order forms and this might be one reason why the system is not generally used. Tenants cannot rid

themselves of the idea that they derive some benefit by paying gratuities of this nature. If the money order system were introduced, it would lead to a decrease in the number of the Company's employees though it would still be necessary to have agents to supervise cultivation, etc.

The Company has only recently started applying for a special summons under section 148K. He agreed transfers to non-agriculturists have been going on from before 1928 and transferability has in the past been encouraged by the courts of law. The amendments about transferability derive their origin from the High Court reporting that transfer were taking place in large numbers. One reason why distraint was never regularly used is that it led to a number of criminal cases. Another reason is that up to about 1926, rent was paid more regularly than it is now and consequently distraint was not necessary on a large scale. If reintroduced, it might lead to riots and breaches of the peace. Another difficulty is that it can only be used at the time when the crop is on the ground, and the tenants manage to get intimation that a distraint order is on the way and cut the crops before they are fully ripe.

With reference to the reply to question 86, Sir Frederic Sachse explained that rents had been deliberately included in the awards of Debt Settlement Boards because the landlord might sell up the holding during the proceedings before the Debt Settlement Boards, and consequently there would be no security left to repay the debt. Mr. A. Somerville replied that that is no reason why landlords should be debarred from selling up a tenant who does not pay his rent. The landlords have got to pay their revenue punctually, and there is no reason why they should pay other people's debts.

In some cases Debt Settlement Boards are granting 10 to 20 years for the repayment of comparatively small sums. He was not necessarily in favour of abolishing Debt Settlement Boards, but of drastically revising their procedure and confining their operations to real agriculturists, even then this would not restore credit, which is essential.

As regards the right to minerals, he was of opinion that the Permanent Settlement granted *hak hakuk*, i.e., the rights above and below the soil, to the proprietors.

He thought it would be possible to fix fair rent with reference to the classification and productivity of different soils. He mentioned that the pargana rates were fixed on the estimated outturn, although they were probably roughly calculated. He doubted, however, whether Revenue Officers by themselves could carry out this work: it might be

possible with the assistance of the landlords. The Company's managers know what is the productivity and outturn of different areas, and the tenants have also this knowledge and will not take settlement of certain classes of land beyond certain rates of rent.

He thought, however, that such a system of fixing rents would be too expensive and not commensurate with the results obtained.

He thought that there must be some bargadars who have the necessary qualification to vote for the Assembly.

He thought it very difficult without interfering with the laws of inheritance to make any constructive suggestion for stopping fragmentation and subinfeudation. The only way of stopping subinfeudation is to have a maximum rent paid by the man at the bottom of the chain and that rent must be fixed.

Figures supplied by the Midnapore Zamindari Company, Limited.

1. Figures relating to remission of interest, rent etc., have been given, as far as possible, from 1310 (1903-04) in Bogree and Junglemehal Concerns and from 1316 (1909-10) in Sildah Concern.

2. No large donations to hospitals, schools, etc., have been made.

3. Cost of non-acquired lands for roads, leper clinics, etc., has been calculated, in most cases, at Rs. 20 per bigha.

4. Results of experiments into yield of various crops and cost of cultivation has been dealt with by Mr. Keith Smith (Statement No. 1).

5. No large sums have been spent in the establishment of hats, which although most beneficial to tenants and public alike, do not cost very much for maintenance.

6. Some 20 thousand bighas of waste lands have been leased out at low rates of rent and salami, the cultivation of which will provide employment for a large number of labourers both male and female. It is also anticipated that such cultivation will reduce soil erosion.

Southern Division—Pergunnah Sildah.

Cultivation.

1 Acre—2 bighas, 7 cottahs and 13 chattaks.

Average produce of aman paddy—2½ arrahs per bigha—6 arrahs per acre—19½ maunds per acre and straw 2 kahans 6 pauns.

Cost of cultivation per bigha—

	Rs.	A.
Seed ...	0	8
Ploughing ...	1	0
Coolies for mending ails ...	0	4
Cost of weeding ...	0	9
Cost of planting ...	0	6
Cost of cutting ...	0	8
Cost of tying ...	0	4
Cost of threshing ...	0	8
Cost of stacking straw ...	0	2
Manure 2 gharries ...	1	0
	5	1
∴ Cost of cultivation per acre ...	12	3

N. B.—This tallies with accounts givon by several experienced cultivators of this locality.

I have been able to increase the yield of aman paddy by 2 maunds 3 seers per acre by using improved seed.

Baid paddy also has been given a considerable increase when improved seeds have been used.

Improved seed means that purchased from Government Agricultural Department and indigenous seed improved by the Company.

Sugarcane (*Coimbatore No. 213*).—Produce of gur per bigha—20 maunds.

∴ Per acre—48 maunds.

Cost of cultivation per bigha

		Rs.	A.
Cost of first watering		0	10
Cost of ploughing		2	0
Price of cuttings	...	10	0
Cost of planting	...	0	10
Cost of watering at the time of planting	...	0	6
Cost of watering for 3 months	...	7	8
Cost of fencing	...	2	4
Cost of digging	...	3	0
Cost of tying 3 times	...	2	0
Price of manure	...	3	0
Cost of cutting and cleaning	...	2	8
Cost of boiling gur	...	1	8
Price of fuel	...	2	0
Cost of crushing	...	22	0
Cost of making shed	...	0	8
Price of gur pots	...	3	12
Coolies for making gur	...	0	8
Hire of the crushing press	...	3	0
		67	2

∴ Cost of cultivation per acre—Rs. 159-6-9.

Sugarcane cannot be cultivated extensively in Sildah Pergunnah owing to the fact that there is very little suitable land.

Babui or Saboi grass, taking cost of original planting, fencing, etc., will give an average profit of about Rs. 20 per acre, if taken over a period of say ten years, as this crop only has to be planted once in ten to fifteen years, if the fencing be kept in good condition. Babui can be grown on *dahi* land and irrigation is unnecessary. There are good prospects of this crop being even more profitable in future, as it is being used increasingly for the manufacture of paper.

Other crops which have been tried with success are bananas (fifteen varieties), papayas (five varieties) and manila hemp, but they are still in the experimental stage.

It is doubtful whether it will be a good thing to introduce the latter to the raiyats on account of the possibility of increasing malaria and other diseases if the practice of steeping in bunds and tanks is taken up extensively. This matter will have to be gone into with the Health Authorities.

Improved variety of cotton has been tried but with very little success. It is, however, still in the experimental stage. Two varieties have been tried, Punjab and American and a Waterproof variety supplied by the Agricultural Department.

Other crops such as Patna rahar and vegetables have been very successful and have been taken up extensively by the raiyats.

Improvement in the rearing of carp has been done and a Carp Farm is run at Belpahari, and *panna* are supplied to raiyats at nominal price to cover expenses.

Poultry experiments have been made and it has been found that Chittagong are the only suitable variety for introducing into the villages, as English breeds have been found not to do well on the feeding available.

For improvement of cattle a Multani-Montgomery bull is kept and has been kept since 1934. He has served over 300 cows and many of his calves can be seen in the locality now.

Statement showing the cost of improvements effected to agriculture, the amount of remission of rent, etc., etc., in Southern Division.

Name of Division.	Costs of improvements effected to agriculture by construction and maintenance of bunds, tanks, wells, etc.	Remission of rent.	Remission of interest on arrears of rent.	Subscription and donations to hospitals, dispensaries and religious purposes.	Value of free lands for construction of hospitals. schools and religious purposes.	Value of free lands for construction of district board, local board and village road .	Cost of construction and maintenance of hat sheds.	Total.
1	2	3	4	5	6	7	8	9
	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Southern	1,64,728 0 5	4,35,548 8 1	18,19,162 5 6	73,621 14 2	2,380 0 0	2,22,920 0 0	3,855 11 3	27,22,216 7 5

Northern Division.

Statement No. 1.

Calculation of the cost of cultivation and outturn of various crops.

The calculation of the cost of cultivation is per acre. The weight of a maund is 80 sicca.

The outturn shown is an average yield that can be expected under fair weather conditions from a light loamy soil generally found in the locality of the districts of Nadia, Murshidabad and Rajshahi.

(1) Sugarcane (grown for gur).

(*a*) Without manuring—

	Mds.
Production of gur per acre ...	45
Saleable cuttings for seed per acre ...	48

(*b*) With manuring—

	Mds.
Production of gur per acre ...	75
Saleable cuttings for seed per acre ...	48

(*a*) Without manuring all the costs of cultivation, crushing, and preparing gur per acre—

	Rs.	A.	P.
Ploughing charges per acre ...	9	0	0
Seed ...	9	0	0
Charges for sowing, fencing, ridging, earthing up, weeding, cutting ...	45	0	0
Cart hire for taking cane to crushing machine ...	3	12	0
Cart hire for taking dry leaves to crushing machine ...	3	12	0
Charges for crushing, tins, etc., and preparing gur ...	54	6	0
Rent for sugarcane crushing machine ...	6	12	0
Rent per acre (4 quarters) ...	3	1	6
	132	7	6
(*b*) With manure cost per acre ...	9	0	0
	141	7	6

(2) *Sugarcane (grown for cane only).*

(*a*) Without manuring—

		Mds
Production of cane per acre	...	400
Saleable cuttings for seed per acre	...	48

(*b*) With manuring—

		Mds
Production of cane per acre	...	550
Saleable cuttings for seed per acre	...	48

(*a*) Without manuring—

		Rs.	A.	P.
Ploughing charges per acre	...	9	0	0
Seed	...	9	0	0
Charges for sowing, fencing, ridging, earthing up, weeding, cutting	...	45	0	0
Rent per acre (4 quarters)	...	3	1	6
Carting cane to mill—one pice per maund per mile—say distance 5 miles	...	24	10	0
		90	11	6
(*b*) With manure cost per acre	...	9	0	0
Total	...	99	11	6

Linseed.

		Mds
Production per acre	...	6
Saleable straw per acre	...	1¼

		Rs.	A.	P.
Ploughing and sowing charges per acre	...	3	6	0
Seed	...	3	0	0
Harvesting charges	...	2	4	0
Conveyance to threshing yard	...	0	6	0
Charges for threshing	...	1	2	0
Rent per acre (2 quarters)	...	1	8	9
Total	...	11	10	9

Oaten Hay.

		Mds.		
Production per acre (30 bales of 30 seers each)	...	22½		
		Rs.	A.	P.
Ploughing charges per acre	...	5	10	0
Seed	...	2	13	0
Sowing, breaking up clods, etc.	...	2	4	0
Harvesting charges	...	3	0	0
Wages of guard	...	0	12	0
Conveyance to yard	...	2	4	0
Charges for baling	...	1	11	0
Galvanized wire for baling	...	1	0	0
Rent for 2 quarters	...	1	8	9
Total	...	20	14	9

Oats.

		Mds.		
Production per acre	...	15		
Saleable straw	...	9		
		Rs.	A.	P.
Ploughing charges per acre	...	5	10	0
Seed	...	2	13	0
Sowing, breaking up clods, etc.	...	2	4	0
Harvesting charges	...	2	4	0
Conveyance charges to yard	...	2	4	0
Wages of guard	...	0	12	0
Threshing charges	...	1	11	0
Rent for 2 quarters	...	1	8	9
Total		19	2	9

Mustard (sown broadcast).

			Mds.
Production per acre ...			4½
	Rs.	A.	P.
Seed ...	0	12	0
Harvesting charges ...	1	11	0
Conveyance to threshing yard and threshing charges ...	1	8	0
Rent for 2 quarters ...	1	8	9
Total ...	5	7	9

Aus paddy.

			Mds
Production per acre ...			15
	Rs.	A.	P.
Ploughing per acre ...	5	10	0
Harrowing and sowing charges ...	2	4	0
Seed ...	3	0	0
Weeding charges ...	4	8	0
Cutting, carting to threshing floor and threshing ...	3	6	0
Rent for 2 quarters ...	1	8	9
Total ...	20	4	9

Aman paddy.

			Mds
Production per acre ...			18
Saleable straw ...			13
	Rs.	A.	P.
Ploughing charges per acre ...	5	10	0
Seed ...	3	0	0
Harrowing and sowing charges ...	1	14	0
Weeding charges ...	3	0	0
Cutting, carting to threshing floor and threshing ...	3	6	0
Rent for four quarters ...	3	1	6
Total ...	19	15	6

Wheat.

			Mds
Production per acre ...			9
Saleable straw ...			7

	Rs.	A.	P.
Ploughing charges per acre ...	11	4	0
Seed ...	6	0	0
Weeding charges ...	1	0	0
Cutting, carting to threshing floor and threshing charges ...	5	4	0
Rent for 4 quarters ...	3	1	6
Total ...	26	9	6

Mosuri.

			Mds
Production per acre ...			9
Saleable straw per acre ...			6

	Rs.	A.	P.
Ploughing charges per acre ...	3	6	0
Seed ...	1	14	0
Cutting, carting to threshing floor and threshing charges ...	3	12	0
Rent for 4 quarters ...	1	8	9
Total ...	10	8	9

Barley.

			Mds
Production per acre ...			9
Saleable straw ...			7

	Rs.	A.	P.
Ploughing charges per acre ...	4	8	0
Seed ...	2	4	0
Cutting, carting to threshing floor and threshing charges ...	5	4	0
Rent for 2 quarters ...	1	8	9
Total ...	13	8	9

Kalai (sown broadcast).

			Mds
Production per acre ...			7½
Saleable straw ...			9
	Rs.	A.	P.
Seed charges ...	0	15	0
Sowing charges ...	0	9	0
Cutting, carting to threshing floor and threshing charges ...	5	13	0
Rent for 2 quarters ...	1	8	9
	8	13	9
If ploughed ...	2	4	0
Total ...	11	1	9

Potato.

			Mds.
Production per acre ...			90
	Rs.	A.	P.
Ploughing charges per acre ...	11	4	0
Seed ...	30	0	0
Sowing charges ...	3	6	0
Breaking up clods ...	2	4	0
Earthing up and ridging ...	4	8	0
Manuring ...	6	0	0
Irrigating ...	11	4	0
Harvesting and carting to store house ...	6	6	0
Rent for 4 quarters ...	3	1	6
Total ...	78	1	6

(1) Jute (grown for fibre).

				Mds
Production per acre		...		15
		Rs.	A.	P.
Ploughing and sowing charges	...	9	0	0
Seed	...	1	8	0
Harrowing charges	...	0	12	0
Weeding charges	...	11	4	0
Thinning out	...	1	8	0
Cutting charges	...	2	13	0
Charges for bundling	...	1	2	0
Carting to steeping place	...	3	12	0
Charges for steeping and washing	...	10	14	0
Drying charges	...	1	2	0
Manuring	...	6	0	0
Rent for 2 quarters	...	1	8	9
Total	...	51	3	9

(2) Jute (grown for seed).

				Mds.
Production per acre seed		...		3
Saleable bad jute fibre		...		9
		Rs.	A.	P.
Ploughing and sowing charges	...	9	0	0
Seed	...	1	8	0
Harrowing charges	...	0	12	0
Weeding charges	...	11	4	0
Thinning out	...	1	8	0
Cutting charges	...	2	13	0
Charges for preparing and cleaning seed	...	2	4	0
Manuring	...	6	0	0
Price of bags for keeping seed	...	0	12	0
Rent for 4 quarters	...	3	1	6
Total	...	38	14	6

Gram.

			Mds
Production per acre ...			9
Saleable straw ...			6

	Rs.	A.	P.
Ploughing and sowing charges ...	3	6	0
Seed ...	1	14	0
Harvesting charges ...	2	4	0
Conveyance to yard and threshing charges ...	1	8	0
Rent for 2 quarters ...	1	8	9
Total ...	10	8	9

Peas.

			Mds.
Production per acre ...			7½
Saleable straw ...			4

	Rs.	A.	P.
Ploughing charges ...	3	6	0
Seed ...	1	8	0
Harvesting ...	2	4	0
Conveyance to yard and threshing charges ...	1	8	0
Rent for 2 quarters ...	1	8	9
Total ...	10	2	9

Turmeric (green).

			Mds.
Production per acre ...			150

	Rs.	A.	P.
Digging and turning over soil and harrowing ...	7	8	0
Seed ...	37	8	0
Sowing charges ...	9	6	0
Harvesting charges ...	9	6	0
Rent for 4 quarters ...	3	1	6
Total ...	66	13	6

Chillis (green).

			Mds.
Production per acre—			
Green ...			30
Dried ...			7½
	Rs.	A.	P.
Ploughing charges ...	11	4	0
Seed ...	1	8	0
Planting out seedlings ...	1	11	0
Hoeing charges ...	1	14	0
Weeding charges ...	11	4	0
Harvesting charges ...	4	8	0
Rent for 4 quarters ...	3	1	6
	35	2	6
If dried—			
Drying charges ...	6	0	0
Total ...	41	2	6

Napier Grass (cattle fodder).

			Mds.
Average annual production over 5 years ...			400
	Rs.	A.	P.
Ploughing charges ...	6	12	0
Seed ...	15	0	0
Hoeing charges ...	5	10	0
Manuring for 5 years ...	45	0	0
Rent for 5 years ...	15	5	6
Total cost over 5 years ...	87	11	6
Average cost per annum ...	17	8	6

NORTHERN DIVISION.

Statement No. 2.

Showing the approximate expenditure in charity, and for the improvement of agriculture, cultivation, produce, livestocks, etc.

1. *Hospitals and dispensaries.*—Rupees 4,007 is spent annually, and besides this, Rs. 37,543 has been spent since 1900 A.D.

The lands for these institutions within the Company's properties are given rent-free.

2. *Schools.*—Rupees 875 is spent annually, and besides this, Rs. 19,780 has been spent since 1900 A.D.

The lands for these institutions within the Company's properties are given rent-free.

3. *Construction and repairs to roads, bunds, tanks, khals, wells, bridges, culverts, clearing water-hyacinth, etc.*—Rupees 25 is spent annually, and besides this, Rs. 94,178 has been spent since 1900 A.D.

The Company has supplied large quantities of building material free for these purposes.

Our predecessors, previous to 1900 A.D., spent large sums in the making and maintaining the upkeep of these above items. All the roads recorded within our "khas khatians" by the Cadastral Survey Settlement Authorities were established by the Company or its predecessors-in-interest and are within our properties for which we pay revenue or rent according to our right. Besides these khas roads, it will be found that most of the roads now controlled by the distirct and local boards were, at one time, controlled and maintained to a great extent by the landlords. In many cases such roads have passed into the hands of local bodies without the landlord getting any compensation.

I estimate the value of the roads in our khas possession, if they were acquired, at not less than Rs. 15,30,000.

4. *Hats, bazars, ghats, ferries, etc.*—Rupees 73,566 has been spent since 1900 A.D. The Company and its predecessors have established all these items within their properties and have spent large sums in establishing and maintaining them.

5. *Famine, flood, fire relief, etc.*—Rupees 87,275 has been spent since 1896 A.D.

Tenants, in times of calamity, have been given free wood and land for making bricks, bamboos and thatching grass for their houses, and allowed to graze their cattle on reserved grass lands.

6. *Donations for religious purposes.*—Rupees 406 is paid annually, and besides this, Rs. 6,374 has been spent since 1900 A.D.

Lands for these institutions within our properties are given rent-free. The building materials for several mosques and temples have been supplied by the Company and its predecessors free of charge.

7. *Other subscriptions for public purposes.*—Rupees 817 is paid annually, and besides this, Rs. 4,218 has been spent since 1900 A.D.

8. *Livestock.*—Rupees 5,440 has been spent since 1900 A.D.

The Company and its predecessors have always kept, where a Manager is stationed, pure bred or good upcountry bulls which have been used by the tenants to improve the local cattle. Stallions and upcountry buck goats have also been kept for the purpose of improving the local ponies and goats. Good breeds of fowls and eggs have been distributed amongst the tenants during recent years for the same purpose.

9. *Agriculture.*—Rupees 78,157 has been spent since 1900 A.D., by distributing various kinds of improved or good seed; by encouraging the tenants to use these improved seeds by demonstrating to them their greater productivity than the local kinds by growing them on our farms and other methods.

Up to 1906 the tenants knew nothing about jute. In 1906-07, the Company not only distributed large quantities of jute seed amongst the tenants, but engaged men from the jute growing districts to show them how to cultivate, steep, ret and prepare the raw jute for the market. Jute is now very largely grown in our districts. The Company has ever since repeatedly introduced fresh and improved jute seed for distributing amongst the tenants to improve the quality and quantity.

A kind of Coimbatore sugarcane was first introduced to the tenants by the Company in about 1929-30, which was shown by demonstration on our farms to double the cane and the quantity of gur production of the local grown cane. Large quantities of "setts" of this Coimbatore cane were distributed to the tenants and within 5 years the previous local cane was entirely ousted. Since 1935, several small and large sugar mills have been erected, which are entirely due to the Company's enterprise in introducing the Coimbatore strain of cane.

Within the last three years the Company has successfully introduced an early maturing paddy, which has become necessary in some areas on account of floods. Over 1,000 maunds have been distributed to the tenants free of interest.

The Company has done a great deal in introducing improved, good and new kinds of seed for grain crops, cattle fodder crops, green manuring crops and vegetable seeds, as well as fruit plants and trees, and have

encouraged the tenants to grow them in every way possible, such as by demonstration on our own farms, distribution of seeds, cuttings and seedlings, at cost price or even free to the tenants. The cultivation of potatoes, onions, cauliflowers, pineapples, was little, if at all, grown by our tenants a few years ago, their cultivation is now increasingly extending due to the Company's enterprise.

New kinds of ploughs have been demonstrated but with little success to date.

Our predecessors, also imported seed for improving the yield of crops.

The Company since 1906 has brought 40,000 to 50,000 acres of waste lands in jhow or other jungle under cultivation by giving the land rent-free to tenants for three years. Its predecessors brought thousands of acres too under cultivation by similar methods or by their own cultivation as they maintained large herds of draft cattle.

The Company and its predecessors have recruited and encouraged people from other districts to settle within their properties by giving them materials for building their houses, wells, etc., and the land lying in jungle or waste, on easy terms or free of rent for a period of years until the lands were in full production. Many new villages thus sprang up and many of these villages bear the names of the European and Indian employees who introduced these settlers.

The Company and its predecessors have set apart grazing fields for the tenants' cattle.

10. *Rent remitted.*—Rupees 18,98,333 has been remitted since 1909 A.D.

11. *Interest remitted.*—Rupees 42,26,240 has been remitted since 1909 A.D.

12. *Loans, interest remitted.*—Rupees 1,00,829 has been remitted since 1927 A.D.

13. *Estimated value of lands given free of rent for religious purposes, schools and other charitable institutions, graveyards, etc.*—Rupees 5,860 has been spent since 1900 A.D.

Reply by the Mymensingh Landholders' Association.

Q. 1, Part 1. Duties and obligations mentioned in this question are those which were imposed by the Permanent Settlement Regulation and the zamindars carried them out to the best of their powers. It is a mistake to suppose that the zamindars in Bengal were middlemen and mere rent collectors under the Muhammadan rule and that they were raised to the status of actual proprietors of the soil by Lord Cornwallis by the Permanent Settlement of 1793. Zamindars were not only *de facto* proprietors of land but *de facto* rulers within their estates since the dawn of history. The preserved peace and order within their estates, put down crimes, and punished offenders, decided civil suits and looked to the interest of labourers and cultivators and gave relief to them in times of scarcity and represented and maintained the royal authority. The literature and tradition of Bengal reflects to this day the position and influence which the zamindar exercised in the political and social economy of the province.

Warren Hastings deprived the zamindars of their quasi feudal powers and of their judicial and police powers. Lord Cornwallis did not restore to the zamindars their former powers but restored them to the honoured place they had held for centuries. The placing of a limit to the Government demand by the Permanent Settlement enabled the Government by the subsequent legislation (Act X of 1859, Act III of 1869 and Act VIII of 1885) to limit the demands of zamindars from raiyats. "The cultivators of Bengal are more prosperous, more resourceful, better able to tide over years of bad harvest than the cultivators of other provinces in India. The limitation of the State demand has fostered agricultural enterprise, extended cultivation." (*Vide* Mr. R. C. Dutta's open letters to Lord Curzon.)

Mr. Colebrooke in his *Husbandry of Bengal* remarks that two-thirds of Bengal were waste lands at the time of the Permanent Settlement and it had led to the accumulation of some capital in the hands of private proprietors. This capital had been fairly distributed among the intelligent and industrious of all classes, encouraged education, classical and modern, and culture among the middle classes. The zamindars also granted large tract of lands, rent free, to foster education and culture for the general well-being of society and also encouraged music and other fine arts. The zamindars as natural leaders did everything in their power for the benefit of those under their care and used to build up and maintain the social structure of Bengal at heavy expense in addition to the duties imposed upon them by the Permanent Settlement. The cordial relations which zamindars maintained with their tenants continued unabated, fed and fostered by their patriarchal authority down to the beginning of the various tenancy legislations,

which are disrupting the cordial relations and are destroying the initiative and energies of the zamindars for the improvement of society and gradually converting them into a contractual relationship. A summary of the Regulations and the various rights and duties defined therein will be supplied at the time when evidence will be taken.

Q. 1, Part 2. The Permanent Settlement Regulation did not take away any existing rights from the tenants but certain rights were conferred on certain classes of tenants. Their customary rights were vague, uncertain and indefinite. These rights were recognised and made definite and certain. The Regulation noticed that there were persons—mokraridars or istemrardars and dependent talukdars and khudkasht raiyats. Sufficient provision was made for the rights of these classes of raiyats. Then comes a provision about the "remaining lands", that is all that are not of the classes just named. These lands were to be let, under the prescribed restrictions (granting of pattas), in whatever manner the zamindars may think fit. There can be no doubt that when the zamindars were legally recognised and such persons as could show a right to hold independently of the zamindars were acknowledged, all the other cultivators became raiyats or tenants. In Bengal if we regard the entire scale of rights below the landlord, we shall find at one end of the series, the small class just alluded to and in the end of the series the real tenants, people who were cultivating the landlords' private lands or who had been located by him on lands laid waste. The Government were well aware of the indefinite relations between zamindars and raiyats, were well apprised of the uncertain nature of the rights of the cultivators of the soil, so that practically nothing effectual had been done between 1765 and 1790 to define or adjust those rights. Lord Cornwallis was sanguine that the combined effect of the limitation by the Permanent Settlement of the State demand and of the patta regulations would have the ultimate effect of adjusting the relations between the zamindars and raiyats and obviating all objections to a Permanent Settlement upon the undefined demands of the former upon the latter. In the time of the Moghul and the Muhammadan Government the share of the State was uncertain and also the share of the zamindars was uncertain. The Permanent Settlement fixed and made certain the former but the latter remained as uncertain as before. In point of law and fact the ordinary tenants can claim under the provision of Lord Cornwallis's Code on rights at all. (*Vide* Baden Powell, pages 207 and 208 and Field, page 506; Minute of Sir John Shore, p. 389.)

"That tenant right in any form was unknown in the provinces, and that the utmost confusion prevailed everywhere as to the terms on which the raiyat held his lands. (Colebrooke pp. 39, 46 and 47.)

Q. 2. The Permanent Settlement did not convey but merely recognised the pre-existing rights of the zamindars to choose his tenants or to regulate the usage of the lands to the best advantage of the lands (*vide* 51 and 56, Regulation I, 1793). Lord Cornwallis thought that it was impossible to harass the zamindars with conditions about his subordinate tenants and with vexatious interference in his dealings with them. It was supposed that the newly acknowledged landlord would extend cultivation, and thereby enlarge his own receipts; that he would improve the class of crop grown; and as differential rents were always acknowledged for richer and poorer crops, it was supposed that rentals would rise in this way. The landlord would thus become rich; on the other hand he would employ and liberally pay more and more for labour; everywhere he would be known as the benevolent landlord of a contented tenant. (*Vide* Baden-Powell, page 289.) Mr. Shore says that it was prescriptive law that the raiyats cannot change the species of cultivation without forfeiture of the rights of occupancy (Field, page 540.) As to the rights of the landlord to choose his tenants it has been discussed in the answer to question 1. Agricultural efficiency depends on a conscientious landlord and efficient tenants.

Q. 3. The landlords played a very important part in the economic development of the country. The country has prospered under the aegis of the zamindars and there is no reason to regret the Settlement. On the 20th October 1883 the Commissioner of the Burdwan division reported to the Government of Bengal as follows:—"The Bengal of today offers a startling contrast to the Bengal of 1793; the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement; a great portion of this increase is due to the zamindari body as a whole, and they have been very active and powerful factors in the development of this prosperity." (*Vide* Rent Commission of 1880, proceedings.) The chief defence of landlordism is that it supplies agriculture with capital at a cheap rate. "Landlords' position in agriculture is not one of privilege but of utility." Landlords are to be real leaders of the rural population. They are to bring in improved methods in agriculture and enlightenment in rural life. Cultivators must have landlords; they are poor, unorganised, illiterate. They require leadership, financial assistance and they require to be led at every step—be the landlord the State or any private landlord.

The landlords played their part well, and most efficiently; what the country expected from them they performed to the best of their powers, handicapped as they had been under the Regulations and the successive tenancy legislations.

Sir John Shore in para. 311 of his Minute observed "in the list of zamindari charges there will be found charitable donations which

ought properly to be paid by officers of Government." In this connection Regulation XXXIII of 1793 will throw much light.

Q. 4. It is absolutely incorrect to say that Permanent Settlement converted the status of the zamindars from collectors of revenue to actual proprietors of the soil. They were actual proprietors long before the Permanent Settlement. It is very easy to write that the authors of the Permanent Settlement with a few strokes of the pen, converted Muhammadan tax gatherers into landed proprietors and phrases of that sort; but they are far too summary to be accurate and just. (Baden-Powell, page 523.) During the Muhammadan times of the Hindu Rajas and zamindars had to perform all the functions of the Sovereign. They heard and decided cases, civil and criminal, and enforced obedience to their decrees and sentences in the same way as a Sovereign. They had their own law officers or pandits. The police administration was under them. In fiscal matters their authority was supreme, the interference by the Ruling Power being really few and far between. The necessary result was the practical continuation of the old Hindu system (T. L. L. of S. Mitra page 26.) In ancient Hindu times subletting was unknown but this state of things would not last long. Either from necessity or from indolence or from an abundance of sudra labourers sub-letting soon became common. In Thakurani Dasee *v.* Biseswar Mookherjee, Justice Campbell, afterwards Sir George Campbell, Kt. Governor of Bengal, is reported to have expressed the same opinion. Narad and Parashar had to deal copiously with question of the relationship of landlord and tenant (*Ibid*). Field shows that the landlord used to get 25 per cent. of the gross produce. Intermediate tenures also were apparently unknown in earlier days. The text books deal only with the rights of the owners of the land and the cultivators. Intermediate tenures must have come into existence at a later stage of society. In the ancient Hindu times the village headmen, lords of ten or hundred villages, by virtue of hereditary succession, assimilated to themselves the powers of influential zamindars. Powerful Chiefs or Sovereigns, to the maintenance of whose power large armies were necessary, were unable to pay them in money, for money did not exist in sufficient abundance; and so they assigned to their Generals specified tracts of territory. In course of time these Generals acquired a position and local importance and their family taking root in the locality became the germ of an aristocracy between the cultivators and the Sovereign. Similar grants were made for the support of civil officers, for the maintenance of temples and of holy men, for the reward of public services and to royal favourites. Here was another source of a class standing between the Sovereign and the cultivators. Then there were in a natural course of things many petty chiefs who had acquired a local position and influence before they came in contact with a stronger power to which they succumbed, but retained their former position to those below them. In

these and other ways there came to exist between the Sovereign and cultivators a class of aristocracy, variously known as Rajas, zamindars, talukdars and choudhuries, the exact nature of whose rights puzzled the first English administrators of the country in no slight degree. It has been erroneously said that most of the considerable zamindaris of Bengal may be traced to an origin within a century and a half (Mr. Field, page 39). Without entering into any controversies of Hastings, Grant, Shore or Francis it may safely be said that the Muhammadan epoch was famous for the development of the zamindari system. The landohlders of Bengal and Bihar submitted a memorial to the Secretary of State in the early eighties of the last century wherein they urged (*i*) that the zamindars were not a creation of the Settlement but a survival of days long before the reign of Akbar as shown by the fact that many of the oldest families could trace their origin to a period anterior to that reign and in some cases even anterior to the Muhammadan rule; (*ii*) that the established rule of the Moghul finance was that the rents belonged to the Sovereign and the lands to the zamindars; (*iii*) that the Emperors of Delhi used to purchase lands from the zamindars in recognition of their proprietory rights. Pitt's Act which was passed (24 George III, Ch. 25, s. 39) says "For settling and establishing upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which the tributes, rents and services of the Rajas, zamindars, polygars, talukdars and other native landlords should be in future rendered and paid to the United Company." The despatch of the Court of Directors, dated the 21st August 1788, declared that the zamindars had the hereditary tenure in their possession, that many of them could trace back their rights to days coeval with the conquest of Akbar and that the idea of this right had been repeatedly sanctioned in the discussion in Parliament, in the decisions of Court, and in the practice of the Government. The East India Company in 1698 obtained permission from Azim Ushan, a grandson of Aurangzeb and Subedar of Bengal, Bihar and Orissa, to purchase from the zamindars the talukdari rights of Calcutta, Sutanati and Govindapur. In 1717 the Emperor Faruqshir granted the Company permission to purchase 38 more villages, from the proprietors in the province, known as the zamindari of 24-Parganas (*vide* Field, pages 6 and 7). This shows that the East India Company itself first planted themselves in Bengal as a zamindar. The fact that malikana was paid to zamindars, etc., during the Muhammadan times and in the early British period, whose lands were made khas also shows the proprietary status of the zamindars (as for instance the maintenance to the proprietors of Hasradi Pargana of this district—*vide* Wroughton's report of the Hasradi Pargana).

In this connection the observations of their Lordships of the Privy Council (1 M.I.A., p. 305) may be interesting. In the unquiet times,

which preceded the Company's acquisition of the Dewani, arbitrary power respected neither prescriptive rights nor established usages. The management by the Company had no tendency to restore order and the Company found the whole system embarassed and confused.

Q. 5. The Permanent Settlement Regulation, Regulation 1 of 1793 says "the zamindars, etc. are to consider these orders as irrecoverable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the Administration of their affairs in this country."

This is a solemn pledge couched in unequivocal language binding on this Government. Surely no Government unless prepared to break all its treaty and other obligations and solemn undertakings given by its predecessors can treat this solemn promise as a mere scrap of paper. The Permanent Settlement was not the seeking of the zamindars but was thrust upon them by the Supreme Power at Home for its own stability and to save the Government from bankruptcy. If after 150 years any attempt is made to change the land system, that would be doing injustice to those who have invested huge amounts in land solely relying on the strength of this solemn and inviolable pledge. Looked at from this standpoint any legislation tampering with the spirit of the Regulation would be a discriminatory legislation which every State ought to avoid. Taking all things into consideration the State has not suffered but the ancient Rajas and the zamindars have suffered. The best authorities are now agreed that the adoption of the principles of the Permanent Settlement was not a mistake. The land system inaugurated by the Permanent Settlement was a scientific system and for the good of all classes of society and therefore binding on all. The Government recognised the proprietorship of the zamindar and they have continued in their enjoyment of the rights with the connivance and concurrence of the whole nation. The Permanent Settlement did not stop at declaring certain persons as proprietors. It evinced solicitude for the welfare of the raiyats and various rules were promulgated to govern leases and rents of raiyats. The State did its duty towards itself by securing its revenue, its duty to the zamindars by declaring him a proprietor, its duty to the raiyats by securing to them the State protection. So the raiyats have no complaint against the State. The pledge given in the proclamations for the protection of the raiyats has been more than redeemed by the various Regulations and successive tenancy legislation of 1859, 1869, 1885, 1928 and lastly 1938 much to the detriment of the proprietors of land and in derogation of their fundamental rights. "We are going to take back by force in 1884, a property that we forced the zamindar to buy in 1793, and so little mindful are we of the reputation for good faith in these days that a course is being boldly adopted by us that no one has ever ventured to suggest in a whisper until now." (Colebrooke, XVI.)

It was a sacred contract absolutely and irrevocably binding on the parties to it and on the country as a whole.

The Permanent Settlement did not cripple the financial resources of the country. On the other hand the heavy assessment of land revenue at the Settlement crippled the resources of the zamindars and brought about their ruin as would be evinced by the fact that more than one-third of the estates were sold away during the next 10/15 years. The method of computing the alleged huge profit of the zamindars by showing the gross rentals on one side and the Government revenue and cesses on the other is fundamentally wrong.

If the Permanent Settlement yields more profit to the landlord and to the tenants it does not mean a sacrifice on the part of the Government. The prosperity of the people is an asset to Government and if the State considers itself a loser in the shape of land revenue, that loss is more than counterbalanced by increased return in the shape of receipts under stamps, customs and income-tax.

Q. 6. From the answer to question 3 it would be patent that what was expected of the zamindars they fulfilled that expectation to the best of their abilities. Sir Richard Temple, Governor of Bengal, in his "India in 1880" says (in page 115) "The great landlords in India known by the names of zamindars, talukdars and other titles are chiefly associated in the public mind with the provinces of Bengal, Bihar, Orissa and Oudh. Some of these native gentlemen apply capital to the soil, reclaim the waste land, conciliate their tenantry and in all respects show forth a bright example." After the Permanent Settlement (Ascoli, page 74) the zamindar was faced by the immediate prospects of being liable to pay a revenue which was very heavy. Over his head was brandished the axe of sale, ready to descend and destroy him, if the smallest arrear accumulated—in 1797 estates bearing a revenue of Rs. 8,57,355 or more than two-thirds of the revenue of the district were ordered for sale in Dacca; in 1799 the arrears of revenue for the district were Rs. 1,21,047; in 1801 it was Rs. 2,08,266 and in the year 1800 the revenue of the estates put up for sale amounted to Rs. 1,48,294. This state of affairs was not particular to the district of Dacca. In fact the ancient houses of Rajshahi, Nadia, Bishnupur and Kashijurrah, were sold out during the fifteen years of the conclusion of the Permanent Settlement in 1793. The auction purchasers at these revenue sales invested their capital and they being sensible men were fully conscious of the fact that the revenue assessed on these estates purchased by them was exorbitantly high, leaving a very narrow margin of barely 10 per cent. and that they were fully conscious of the fact that the only means of augmenting their income was by extension of cultivation. The logical outcome was that they must have invested their capital in courting tenants to settle on the waste lands

by building them houses, supplying them with the implements of cultivation and seeds. In fact the extension of cultivation was the only salvation from ruin by sale. And they must have done their best in their own self-interest to extend cultivation. The original holders of estates who could save their existence from sale must have been able to do so by good management of their estates and extension of cultivation. It goes without saying that the then Government did absolutely nothing to extend cultivation and to improve agriculture. The initiative must have come from somebody and that somebody could never have been the "vagrant raiyat." We would assess 25 per cent. of the extension of cultivation to cause (*i*) namely, the increase in population, 20 per cent. to cause, (*ii*) namely, the enterprise of tenants and the remaining 55 per cent. to cause, (*iii*) namely, the initiative and the pecuniary or other assistance of zamindars. In 1770 the great famine swept away about one-third of the population of Bengal. In this famine and in subsequent famines in Bengal the zamindars rendered yeoman service to save their tenants from utter ruin. This can be gathered from the Government reports. It is idle to suppose that the extension of cultivation was due to the pressure of population since the Permanent Settlement and that Bengal was able to recoup itself in respect of population during a short period of 23 years intervening between 1770 and the Permanent Settlement and in the next few years to come. The pressure of population on land could have been heavy then and for many years after. There were more lands, less tenants and therefore the zamindars' initiative was necessary to fill the gap. We wish we could attribute to the tenants the quality of enterprise but it would be wide of the truth. According to Mr. Colebrooke the population of Bengal, Bihar and Orissa at the Settlement was about 25 millions. The average was 200 persons to the square mile. In Bengal, a little more than one acre of tilled ground for every person was the figure given by Mr. Colebrooke and to-day it is about three-fourths of an acre.

Q. 7. The increase mentioned in this question is very largely due to the industry and good management of the zamindars and in their untiring efforts for the purposes of extension of cultivation of waste lands and improvement in agriculture. This question is dealt with in the answers to questions 2, 3 and 6. The enhancement of rents is also another factor. The efforts of tenants do not count much. It is difficult to give the exact percentage of these factors. Two-thirds of this district of Mymensingh were waste at the time of the Permanent Settlement, so we must ascribe to the extensions of cultivation of waste lands about 40 per cent. of the increase, to enhancement of rent we would ascribe about 30 per cent., to the industry and good management of the zamindars, 25 per cent., and to the efforts of the tenants about 5 per cent.. Another factor has not been taken account of, namely, the

cheapening of money. As Mr. Robert Knight in his preface said in 1884 that the rental of 1793 was four crores and it ought to be 24 crores without any enhancement taking into account only the comparative money values and cultivation of waste land (*vide* Robert Knight's preface to Colebrooke's book). The increase due to increase in area of tenants' holding effected by the last district settlement is a noticeable feature. The figure of 12 crores alluded to in the question appears to be the rental of all classes of landlords and not merely of estates paying Government revenue. An accurate estimate should be made of the rental of estates only and the figure of 12 crores would after making allowances for rentals of tenureholders of all sorts, assessments on coal mines, tea plantations, forests and the rentals intercepted by raiyats, etc., would come down considerably.

Then, again, deductions will have to be made for—

(1) Interest on capital outlay incurred in acquiring all interests.

(2) Costs of collection.

(3) Costs of periodical settlements (in the district of Mymensingh the cost of the last district settlement was about 59 lakhs.)

(4) Costs for inquiries into the questions of alluvion, diluvion and deterioration of lands.

(5) Average loss for remission and abatement of revenue in bad years.

(6) Percentage of arrears in Government estates is as high if not higher as in permanently settled estates. The general rates of rentals at the time of the Settlement, varied from one-third of the gross produce to nine-sixteenths. In 1884 it was one-twentyfifth. At the present day it will be about one-sixteenth in the district of Mymensingh.

Q. 8. By the Settlement zamindars were required and expected to conduct themselves with good faith and moderation towards their tenants. This expectation has been amply fulfilled and this fact has been dealt with *in extenso* in our answer to question 1. They have not failed in any manner. The Permanent Settlement never intended to secure to the tenants "the same equity and generous treatment as they were supposed to have received from Government" but merely enjoined on them to "conduct themselves with good faith and moderation towards their dependent talukdars and raiyats".

The moderation shown by the zamindars towards their raiyats is to be considered beyond reproach if we remember that the Government showed, no moderation in assessing the revenue and if we remember how the zamindars had been and are being explored and harassed to exasperation by subsequent legislations and new imposts.

Q. 9. The zamindars have improved their estates by their good management, industry and enterprise and the reply given in question 3 holds good in this respect.

They have not failed to carry out the duties imposed upon them by the Permanent Settlement; on the contrary they have fulfilled them to the best of their powers, including keeping of proper accounts and granting of rent receipts.

The charge of absenteeism cannot be brought against the zamindars and talukdars of Mymensingh. They are in close touch with their tenants and are easily accessible to them. They have shown the greatest sympathy towards the grievances of their raiyats and stood by them in their hours of trial.

The Tenancy Act has encouraged absentee landlords. They find little incentive in staying in villages by being deprived of their power to improve the lot of the peasantry.

It is not fair to characterise zamindars and talukdars living in towns as absentee landlords because the Tenancy Act has severed the cordial relations which formerly existed between the zamindars and their tenants and being human beings they have lost the incentive to do good to their tenants. They were the leaders of rural development and enlightenment. A great deal of confusion arises from the fact that we are apt to apply to present day facts, the circumstances which existed long before and fail to differentiate between cause and effect. The leadership of rural areas has fallen into unworthy hands and the result is going to be chaos and confusion and communism. "But public works of greater magnitude, such as dykes, roads, canals, reservoirs and bridges must be undertaken by the landlord for the common benefit of himself and his tenants. There has been no unusual incentive." (Colebrooke, p. 48.)

Q. 10. We venture to think that the Permanent Settlement was in the interest of the country economically and for the greatest good of the greatest number, viz., the masses, the middle classes and the zamindars.

The Permanent Settlement is economically and scientifically a sound institution. The Permanent Settlement has materially improved the economic condition of the people of this province. About 80 per cent. of the people of this province live mainly on agricultural income. Agricultural income is higher in Bengal than in other provinces. Bishop Heber in 1826 says that in Bengal "where independent of its exuberant fertility there is a Permanent Settlement, famine is unknown." Mr. Colebrooke declared in 1808 that "the reviving prosperity of the country (Bengal), its increase and rapid improvement are unquestionably due to the Permanent Settlement." In the

beginning of the 19th century, the Marquis of Wellesley, Lord Minto, the Marquis of Hastings—all were convinced of the benefits of the Permanent Settlement. The Permanent Settlement was not a boon to the zamindars and was not sought after by them but was thrust upon them. It was a necessity with the Government. The creation of a prosperous middle class, the improvement of land, and the growth of the source of income, are explicitly set forth in the Permanent Settlement. The Permanent Settlement has avoided the expenses and troubles and harassment of temporary settlement. Such assessments are in many cases found unjust and inequitable. The temporary nature of the tenure in land is a great drawback and check upon the investment of capital and labour on land. The expenditure of the Government cannot be adjusted with reference to uncertain and irregular revenue. In fact out of a revenue of 12 crores of the Bengal Government, 3·24 crores is the most certain amount. The next big item is 3·75 crores as stamp duty. This item is also an outcome of the Permanent Settlement. The zamindars having independent means are generally found to be men of public spirit and more alert to the interest of the people in this country. Mr. G. F. Edmonston, the then Lt.-Governor of the N. W F. Province, recommended the introduction of the Permanent Settlement in a Minute, dated the 27th May 1862, "Judging by the effects of settlements for long periods it may safely be anticipated that the limitation of the Government demand in perpetuity will, in much larger degree, lead to the investment of capital in the land. The wealth of the agricultural classes will increase, the prosperity of the country and the strength of the community would be augmented, and land would command a much higher price. The prospective loss which the Government will incur by relinquishing a share of the profits, arising from extended cultivation and improved productiveness, will be greatly compensated by the indirect returns, which would be derived from the increased wealth and prosperity of the country at large."

The opinions of the other officials of Government also support the same view. Mr. R. C. Dutt, one of the greatest Indian Economists, advocated the Permanent Settlement. The Indian National Congress, by resolutions advocating the Permanent Settlement, blessed the Permanent Settlement in unequivocal terms. Until the advent of socialism from abroad the whole body of public opinion in India was eloquent in its praises for the Permanent Settlement.

The Permanent Settlement has not resulted in the advantage of the landlords at the expense of the tenants. Raiyats in Bengal pay a lower rate of rent and are better off than the raiyats of many of the other provinces in India. In Bengal it is not true to say that the raiyats in temporarily settled estates and in the khas mahals are better off than

those in the permanently settled estates. In fact they are there much worse off. The raiyats in provinces under raiyatwari settlements are distinctly worse off. So the tenants ought in all fairness to bless and not curse the Permanent Settlement. It is futile and jejune to argue that the present day condition of the agricultural classes of Bengal can be ascribed to the Permanent Settlement. Any stick is good enough to beat the Permanent Settlement and the zamindar. Sir Richard Temple, the Lt.-Governor of Bengal, writes in 1880—"the landed system in Bengal has become the mainstay of the national stability and a foundation of popular content."

There is no reason why the zamindars should be singled out and other owners of unearned wealth should be left out.

The tenancy legislations have all been at the expense of the zamindars and nowadays zamindars are more to be pitied and protected. One of the chief delusions under which the Rent Bill was brought forward in 1880, was the belief that the zamindar had so heavily enhanced the rents which the cultivator was paying, that they were out of all proportion to the rates that were being levied at the time of the Settlement. (Colebrooke, VII.)

Now with this exact information in our hand, we are no longer in doubt as to the weight of the present rentals, compared with those that were exacted at the time when the Settlement was made.

Esimate the rental however, at what we may, it is sufficiently clear from the change which has since taken place in the value of money alone, we must multiply that rental four times over—16 crores of rupees—to make it represent a rental of equal pressure to-day. (Colebrooke, VIII and IX.)

With this essay of Mr. Colebrooke's in our hand, the fact becomes as clear as the noonday sun, that the zamindar has so apathetically and carelessly, or else so timidly, asserted his rights, that he has allowed his rents to fall almost to nothing.

A rental of 4 crores in 1793 would represent 24 crores to-day, from the mere increase in area under cultivation, and the change in the value of money.

Q. 11. The Permanent Settlement cannot be assailed on any of the grounds mentioned in the question. Part (*i*) of the question is not very clear. Obviously 80 per cent. of the income from land cannot go to the zamindars as what the landlords in this district receive from their tenants is certainly not more than 8 per cent. of the money value of the produce (vide Mymensingh Gazetteer by Sir F. A. Sachse). In our estimate the figure is still lower, that is, about 6 per cent. of the gross produce. Evidently it is intended to mean 80 per cent. of the

rents from land. Here again the figure 80 per cent. contradicts the figures given in question 7. Be that as it may, besides the revenue which the landlords pay to the Government, they have to bear the additional burden of the various taxes payable to the Government and rates. The tax at the time of the Permanent Settlement was so heavy and the rules adopted for realising it so paralysing that most of the Rajas and zamindars of Bengal, who had the Permanent Settlement thrust upon them, succumbed in the course of three years.

(*ii*) Subinfeudation existed from before the Permanent Settlement (vide Patni Regulation, Preamble) and the Regulation fixed the rents of these taluks and tenures. In this district subinfeudation in the form of tenures after the Permanent Settlement is not very appreciable. The Bengal Tenancy Act has given rise to another form of subinfeudation amongst the raiyats, and the actual tillers of the soil have been placed at the mercy of the superior raiyats. The peasantry of Bengal are in the grip of petty landlords, superior raiyats. They form the petty bourgeois and their movement is directed against the zamindars on the pretext of doing good to the cultivators. Wherever the system of an intermediate tenantry subsists, the peasant is indigent and the husbandry ill managed.

(*iii*) We shall show later on that the Permanent Settlement and other Regulations contemplated enhancement of rents of raiyats. It is neither immoral nor inequitable and is in accordance with the practice and custom prevailing in the countries of Europe. So the Permanent Settlement cannot be assailed on this ground.

(*iv*) If the question suggests the overlordship of superior raiyats over actual tillers, we have no quarrel as has been suggested in the previous answer.

In the district of Mymensingh the average rates of rent paid by raiyats at fixed rents, by occupancy and non-occupancy raiyats and by under-raiyats are respectively Re. 1-14, Rs. 2-12 and Rs. 5 per acre (vide Settlement Report by Sir F. A. Sachse). The rates of rent prevailing in Government estates are not always lower.

The present day zamindars, shorn of all their former powers and privileges, are not what may be styled as "overlords" nor can they be styled "burdensome". Low rentals are the parent of two very serious evils; they lead either to the most careless husbandry, as was remarked by Arthur Young in his famous Tour, or inevitably beget the practice of subletting. (Colebrooke, XIII.)

Q. 12. From the answer to the previous questions it would be patent that we do not advocate the abolition of the Permanent Settlement on any ground whatsoever. The grounds are without substance and are not based on sound assumptions.

Q. 13. We do not agree with the suggestion contained in the question that the Permanent Settlement involves a loss to the State. We have tried to show in our previous answers that the apparent loss of a few crores is more fancied than real. In this connection we would quote the weighty pronouncement of His Excellency Lord Willingdon, speaking of the Permanent Settlement, "a statutory arrangement sanctioned by the lapse of years and inextricably bound up with economical condition and judicial practice. I am also informed that it is very doubtful whether the abolition of the Permanent Settlement would be of any great advantage even financially to any Government" (vide His Excellency's reply to the deputation headed by the Maharajadhiraj Bahadur of Burdwan).

(*i*) and (*ii*) We have already adverted to this topic in our previous answers.

(*iii*) It is not clear whether this agricultural income-tax would be in lieu of Government revenue, cesses and taxes and other rates at present payable by the landlords. If this agricultural tax means an additional taxation, it must be styled as a discriminatory taxation. In any case we are opposed on principle to the imposition of an agricultural income-tax on land. The Permanent Settlement Regulation limited the demand on land by declaring the public assessment upon land as irrevocable and not liable to alteration.

The augmentation of public demand by taxing profits on land in the shape of agricultural income-tax cannot be justified in the permanently settled province of Bengal. We would consider it as a violation of that solemn pledge.

The question of temporary settlements was mooted and negatived (vide Sir John Shore's Minute, pp. 154 to 164). It is not profitable to go over the old grounds and to re-open a controversy long silenced.

Q. 14. We do not advocate (*i*) or (*ii*). The abolition of the Permanent Settlement cannot be justified either in law or in equity. But if the Government by its supreme might, as opposed to right, forces the abolition upon the country, it would be an ex-proprietary measure or rather political expediency. As being an ex-proprietary measure the landlords can legitimately claim compensation for the extinction of their long established rights. The principle of taxing the landlords out of their existence without abolishing the Permanent Settlement is reprehensible. Compensation for ex-proprietary measures has always been given in all ages and in all countries. Even the outgoing Hapsburg family in Austria got compensation for their confiscated lands. Germany, Czechoslovakia, Denmark, Holland and lastly England have given compensation to outgoing landlords.

In calculating the measure of compensation to the zamindars the principles laid down in the Land Acquisition Act should be followed. Roughly speaking we will estimate that a sum of Rupees 300 crores will be necessary for the purpose. Compensation should be preferably in cash.

Q. 15. In view of our answer to question 14, this question does not arise. If the sanctity of the Permanent Settlement could thus be assailed by the present Government, where is the guarantee that the bonds now given will be worth the paper on which they are written?

Q. 16. The nationalisation of zamindaris is being advocated on the ground that it would bring a substantial profit to the Government. The socialist principle that prompts the advocacy of such readjustment of the social and economic structures is obviously borrowed from the West but the nationalisation of land would be of no advantage to the raiyat. The customary rate of rent is bound to give place to competitive rent. If the State ownership of land is associated with all the disabilities and disadvantages under which the landlords now suffer, the Government could not fare better at the hand of the raiyats. They would invite their wrath and curses and these irritation and friction may in no time lead to agrarian revolution against the Government. The magnitude and the minuteness of the task of estimating the amount of compensation should deter anybody from any attempt at tampering with the Permanent Settlement. With the loss of leadership of the landlord in rural life, there would be chaos and confusion. The confidence and sense of security in the State would be gone and everything will be left as indefinite and uncertain. No society can prosper under such indefinite and uncertain conditions. Russian ideals have obtained scant recognition in Europe and there is no reason why it should be encouraged in Bengal.

Q. 17. If the Government is going to purchase the rights of the zamindars, the logical conclusion would be that the Government should also purchase the interest of all tenureholders. The question of advantage or disadvantage does not arise.

The Government should reach the actual cultivators eliminating the middlemen raiyats.

Q. 18. A huge additional machinery would be required to carry on the administration under the changed conditions. There would be no personal touch, as now exists, between the zamindar or talukdar and the raiyat and the administration would be more expensive. It is difficult to give an estimate of the cost. But from the report of Taxation Enquiry Committee it would be apparent that the cost of collection will eat up a large proportion of the expected profit. Besides the heavy costs of periodical settlements and heavy establishment will have to be

maintained for giving effect to the various provisions of the Bengal Tenancy Act, such as alluvion, diluvion, deterioration, splitting up, sub-letting, etc.

Q. 19. The raiyats would never prefer to come direct under Government.

The khas mahal raiyats and raiyats in temporarily settled estates are worse off than raiyats in permanently settled estates. The harassment of the raiyats in khas mahals would prompt any raiyat in that area to cry—"God save us from khas mahals." In spite of the amendments of the Bengal Tenancy Act of 1928 or 1938, the tenants in Government khas mahals are under greater disabilities. Government is the worst landlord. The zeal of the revenue officers proves a curse to the tenants. Even during the depression, the rents have been enhanced in many cases. No private landlord would have ever dreamt of enhancing rents during the depression. The difficulties in the way of realisation of unenhanced rents are formidable and zamindars would welcome any suggestions which may mitigate these difficulties. The rates of rents there are not very low. The welfare of the zamindars is bound up with the welfare of the raiyats.

Q. 20. As regards the first part of the question our answer can be gathered from the reply given to question 11; like zamindars the permanent tenureholders helped in the economic and social development of the provinces.

The familiar intercourse between the petty tenureholders and the cultivators has a beneficial effect on the cultivator economically and socially.

Q. 21. The answer to this question can be gathered from the replies given to question 16. The effect would be similar to State purchase of zamindari rights.

Discontent and unrest will be more widespread. The lot of the masses will remain the same as no part of the surplus will go to him but to the State. There will be thrown out of employment a body of about 56 lakhs of tenureholders who will join the ranks of communists and there will be chaos and anarchy in which all vested interests will be thrown into the melting pot.

Q. 22. Their homestead and khas lands should remain undisturbed in their possession. Even in the Mughal times the zamindars who were deprived of their estates were allowed to retain their homestead, khas lands, nankar, nijjote and chakrans and khamars and this practice was uniformly followed in the early British days. Actual possession should be the criterion. All nankar, chakran, nijjote, whether in khas possession by own cultivation or in cultivation by barga, should be included.

Q. 23. The occupancy right is a creature of the Act X of 1859. In the Great Rent Case 1865, Sir Barnes Peacock opined, "it cannot be doubted that Act X did to some extent encroach upon the rights of the landowner when it created a new right of occupancy". Again he says, "I need not point out the extent of injury which a zamindar would sustain if throughout his whole zamindari, every raiyat, with a right of occupancy is to be converted into a part proprietor with an interest equal to, if not greater than the zamindar himself". Excepting the khudkasht raiyat existing from before the Permanent Settlement, all other raiyats were declared by the Regulation I to be tenants at will.

Q. 24. We do not subscribe to the view raised in the question. The earliest records do not show them to be the actual proprietors of the soil. Whatever rights the cultivators of the soil might have in prehistoric times, were lost in oblivion during the later stages and progress of society. During the later Hindu times no such rights existed because of the growth of a powerful and influential class of landed aristocracy known as dasa, gramik, etc., between the Sovereign and the cultivator. This State of things continued during the Muhammadan times and was accepted by the early British administrators as will appear from our answer to question 4. In view of the foregoing remarks this question does not arise.

Q. 25. We are not in favour of maintaining and extending this principle and allowing the occupancy right to more than one grade of tenants, namely, the occupancy raiyats whose rights have been recognised by the Act of 1885. The growth of under-raiyats in neither desirable nor conducive to the economic welfare of the province.

Q. 26. In view of our answer to the previous question this question does not arise.

Q. 27. What was the intention of the Permanent Settlement as regards non-agriculturist is difficult to say but the word "raiyat" is used there. The controversy raging in the Punjab over the non-agriculturist clauses in the Punjab Land Alienation Act, is going to be introduced here but we would be no parties to it.

It is very hard to distinguish between an agriculturist and a non-agriculturist in our parts of the country. The Bengal Agricultural Debtors Act is finding its practical application difficult. All raiyats under the Bengal Tenancy Act are entitled to the protection given by the Act. The Bengal Tenancy Act makes no distinction between agriculturist or non-agriculturist raiyats. The Act is confined to the user of the land, whether for agricultural and horticultural purposes or not.

Q. 28. There is no reason why the statutory rights intended to protect the interests of cultivators should persist in land which has been

converted to use for non-agricultural purposes. The statutory rights given by the Bengal Tenancy Act can only apply to agricultural and horticultural lands under the Act.

As regards the question of levying any additional tax for such converted holdings, the landlords are already paying an extra levy in the shape of income-tax and cesses. So it would not be fair and equitable to saddle the landlords with any additional tax. The tenants making such conversions may be required to pay an additional tax. It may be in the form of an income-tax or we may follow Regulation XV of 1810 (rescinded by Regulation VII of 1812).

Q. 29. Yes, the number of bargadars, etc., is on the increase. The reasons are given in the answers to question 30.

Q. 30. (*i*) The amending Act of 1929 has not given the bargadars any statutory right, because the bargadars are not tenants but only hired labourers who get generally a half of the produce of the land in lieu of labour. So, no right should be given to them.

(*ii*) Yes, the facilities have increased the number of bargadars but there is no remedy. The indiscriminate right of transfer given by the Bengal Tenancy Acts of 1929 and 1938 have crippled landlords, and it has produced a body of landless labourers. In 1921 the proportion of landless labourers in this district was about 291 per thousand. In 1931 it was 407 and in 1937 it cannot be less than 600 per thousand.

(*iii*) It is true that the raiyats have sold lands since the economic depression which set in from 1929 and that also is a result of the indiscriminate power of sale given by those Acts.

The cry should now be for restricting powers of alienation instead of giving so called "rights" to projas by granting them unlimited powers of transfer for reasons of party politics.

Q. 31. It is very difficult to make a guess but as far as we have been able to gather approximately a bargadar holds about 3 acres in this district which he is able to cultivate with one plough. The majority of bargadars in this district generally hold small lands as raiyats or under-raiyats but the lands being insufficient they take to barga to supplement their income. The number includes also some landless labourers.

Q. 32. We are not for giving rights of occupancy to bargadars. Honesty and industry are guarantee against eviction. Practically they are in a better position than the raiyats and there are many bargadars who continue from year to year because they fulfil their duties and obligations honestly and faithfully.

If a bargadar can claim a permanent right, the labourer in a mill can also claim a share in the mill.

Q. 33. Produce-sharing bargadars are common in the United States, in France and in other parts on the Continent. They are also common in Canada. They are scarcely found in England. The system is economically sound as otherwise large body of persons would be thrown out of employment. The landlords in many cases supply cattle, plough, seeds and manure and they get a half share. In Italy, France and Spain this 'matayage' form of tenancy is even now popular. It is preferable to the cash rent tenancy, is more economical, and more equitable. In times of depression it acts as a blessing and in times of prosperity there is no injustice. The bargadars are mostly enjoying their lands for generations though their tenure is only yearly. The modern tendency in Europe is for demanding security of tenure. It is popular in Australia and the United States. In Italy about one-third of the land are on barga system.

Q. 34. The effect of giving occupancy rights to bargadars would be disastrous.

A large number of people will be thrown out of employment, adding to the list of landless labourers.

There are many poor persons whose livelihood depends solely on the produce of their few bighas of land.

If occupancy rights are once given, the next step would be commutation of produce rent into money rent and determination of fair and equitable rent by applying the village rates. Surely we cannot rob Peter to pay Paul.

The bigger persons will keep their lands in khas possession and have them cultivated by paid labour. It is a notorious fact that now-a-days it has become extremely difficult to realise rents from the tenants. No sane person would like to create any more tenants in derogation of their rights. It would be a fallacy to suppose that the present bargadars will find employment as hired labourers. Their present status will be adversely affected and they will not get the same amount of profit as hired labourers as they are getting now as bargadars.

Q. 35. Bargadars in this district generally get a half share of the produce. This custom is of long growth and so it is better to leave the share to be adjusted by custom and by the laws of supply and demand. Legislation will bring in complications.

Q. 36. In this district agricultural labourers generally get 5 annas per diem without food and 3 annas with food. The labourers do not get employment throughout the year. Bargadars and under-raiyats are better off than agricultural labourers because the former have a greater income having in addition their barga lands to fall back upon and being possessors of land they have a higher status in society.

Q. 37. Yes, as will appear from our previous answer to question 30. Obviously the further facility given by the Act of 1938 has increased this tendency.

Yes, it would be prejudicial to the interest of the cultivating raiyats. We are not in favour of giving unrestricted right of transfer to cultivating raiyats—either to agriculturist or to others; but when once the right is given it is not either practicable or feasible to restrict such transfer to an agriculturist.

We venture to suggest that the unrestricted right of transfer given by these Acts should be taken away. Unrestricted right of transfer was a move in the wrong direction and against the interest of the raiyat. Apart from constant preachings against the zamindars and the rousing of passions against them, calm and cool consideration should be given to this question.

Q. 38. In our opinion, in this district, the size of a holding to maintain a cultivator's family of about five persons should be about five acres in the case of double or treble cropped lands and eight acres in the case of one cropped lands. We suppose that this quantity of land can maintain the family of an average cultivator reasonably with a surplus for bad years.

Q. 39. It is a fact that many raiyati holdings are uneconomic. The causes mentioned in the question have made them still more uneconomic.

Q. 40. In our opinion consolidation of holdings is desirable and is practicable if cultivation on co-operative basis is adopted.

A further fragmentation may be checked if in the division of a holding under the Tenancy Act, the minimum limit of rent is raised to about Rs. 25. The laws of inheritance and also the unrestricted right of transfer should be modified but whether it is practicable is a larger question.

Q. 41. It is not practicable to give the facilities mentioned in the question. The laws of inheritance and the unrestricted right of transfer will lead to fragmentation after consolidation.

Q. 42. We are not in favour of restricting the quantity of land in one particular hand. But as we have said before, there must be a check upon subinfeudation by the bigger cultivators. As an abstract principle unequal distribution of wealth is not desirable. This is a socialist theory and as such it has no place in society in Bengal. If the Government is willing to undertake levelling up inequalities in all spheres then the whole framework of the constitution of the Government will have to be changed.

Q. 43. Coparcenary is a necessary evil and cannot be stopped without interference with the laws of inheritance and this interference is not practical politics.

Q. 44. Does not arise in view of our answer to the previous question.

Q. 45. The present provision in the Bengal Tenancy Act, sections 93 to 99, to compel joint realisation by the appointment of a common manager by the District Judge, is sufficient to give the remedy suggested in this question. But these remedies are rarely resorted to. A larger use of these provisions is likely to cure this evil. It would be better to devise easier methods of partition and exchange.

Q. 46. The statistics given in this question do not appear to be very accurate. However as the answer to this question may be given independent of the statistics, we are of opinion that the Permanent Settlement empowered the landlord to enhance the rates of rent payable by the tenants. "The zamindar is ignorantly denounced as rack renting the tillers of the soil by an exaction of less than half the amount." (Colebrooke, XIV.)

The Permanent Settlement Regulation made restrictions on the enhancement of rents of tenures of dependent talukdars, istemradars, mokararidars and khudkasht raiyats. Then comes a provision about the "remaining lands" that are not of the classes just named. These lands are to be let under the prescribed restrictions namely, granting of pattas, in whatever manner the zamindar may think fit. Had the framers of the Permanent Settlement any intention that the rents of the ordinary raiyats shall not be enhanced they would have declared that in express terms which they never did. But there was a restriction imposed on the other side. Zamindars were forbidden from granting pattas for more than 10 years (Baden-Powell, pages 628-30 and Regulation XLIV of 1793). It obviously contemplated a periodic increase of rents which might be foregone for 10 years but not for more, or it has no meaning. There can be no doubt that when the zamindars were legally recognised and such persons as could show a right to hold independently of the zamindars were acknowledged, all other cultivators became raiyats or tenants-at-will and inevitably in the minds of the English officers, and in the law courts this suggested an enhancement of the rent of the tenants and to eject them if they would not pay. The subsequent Regulations leave all rents to be enhanced at discretion up to the Act XII of 1841. Then came the Rent Law of 1859 which also provided for an enhancement of rent under conditions similar to those which are to be found in the Tenancy Laws of 1885 and 1928. The acquisition by the Company of Calcutta, Sutanati and Gobindapur contained a clause for enhancement of rents (*vide* Regulation XLIV of 1793).

Q. 47. We emphatically deny that the framers of the Permanent Settlement when they made the Government revenue permanent and unalterable contemplated similar permanency and fixity of the rates of rent either in the case of tenants then existing or in the case of tenants who might subsequently be introduced on the land. We have indicated some of the grounds for this view in our previous answers, specially in our answer to question 46. "Tenant rights in any form were unknown in the provinces, and that the utmost confusion prevailed everywhere, as to the terms on which the raiyat held his lands. That the zamindar it was who fixed the rental, that he did so annually with due regard to seasons".

Q. 48. (*a*) The terms of the Permanent Settlement contemplated enhancement of rent of those ordinary tenancies which existed at the Permanent Settlement.

(*b*) Other Regulations also contemplate such enhancements.

(*c*) The various Tenancy Acts and declarations of authorities also contemplate such enhancements.

(*d*) Section 50 of the Bengal Tenancy Act also supports enhancements of rents of those raiyats whose tenancy originated after the Permanent Settlement. Section 6 applies to tenureholders only.

(*e*) By Article VII of Regulation I of 1793, the zamindars were declared empowered to "enjoy exclusively" the improvements due to increase of rents of raiyats whether by enhancement of rents or by extension of cultivation.

Q. 49. As regards the first part of the question, in view of what we have said before, it does not arise.

There are no sufficient materials available as regards the second part of the question, for determining what those rates were, and for distinguishing those tenants who are successors in interest of tenants existing at the Permanent Settlement and those who have taken settlement subsequently. There are very few tenancies of occupancy raiyats in this district which can be traced back to more than fifty or sixty years. As the raiyats have no grievances on this score, we do not propose to suggest any remedy. "To legislate as we are now attempting to do, upon the assumption that the raiyat is rack rented, is to act upon the grossest delusion a legislative body ever entertained. Every public interest demands that the zamindar should have proper legal facilities given to him for enhancing rents moderately, and in fair proportion to the rise in the value of the land, and its production." (Colebrooke XIV.)

Q. 50. It was never the intention that rents should remain unalterable. If we are told to go back to the days of the Permanent

Settlement then the undue privileges given to the raiyats by successive tenancy legislations should be withdrawn and the *status quo ante* should be restored. But is it practicable and will satisfy the agitators?

Q. 51. It was never the intention of the framers of the Permanent Settlement to restrict the landlords to any rates whatsoever and they were "to let their remaining land" in whatever manner they may think fit.

"Parganas rates used formerly to be the prevailing rate" but pargana rates were declared by the legislature more than half a century ago to have become uncertain. (Field, page 79, and Colebrook's Minute of 1812.)

In comparing the rates at the time of the Permanent Settlement (if found) we must take into consideration the purchasing power of the rupee.

Q. 52. It is very difficult to lay down any hard and fast rule for the determination of fair and equitable rent as profit varies from land to land and so should rent. It is very difficult again to determine a rate of rent which can apply to a whole district, much less a rate of rent which can apply to a whole province, as the market value of produce varies from locality to locality and from district to district. In the draft Rent Bill prepared by the Bengal Rent Law Commission of 1880, the highest rent exigible from an occupancy raiyat was limited to one-fourth of the average annual value of the gross produce. (Field, page 50.) In the District Gazetteer of Mymensingh, Sir F. A. Sachse, at page 101, says "what the landlords receive from their tenants is certainly not more than 8 per cent. of the money value of the produce". The same writer at page 64 of the same book says, "It will be obvious therefore that the raiyats' rent proper is one of the least important factors in his budget".

Q. 53. It is very difficult to say on what principle the rent in Bengal is based. So many factors have combined together, such as custom, productivity, competition and lastly legislation, to bring about the present state of rent, that it is very difficult to apportion the share of each. We think the present rent is very much akin to lump rent. In this district, as we have said before, rents vary greatly. The coustomary rent as amended by legislation is recognised in the Bengal Tenancy Act. We think the prevailing rate in that Act is the customary rate.

Q. 54. (*i*) We think that the poorer and the weaker tenants get concessions. It would not be accurate to say that the poorer and weaker raiyats pay, in this district, a higher rent;

(*ii*) We have already suggested that legislation is the factor besides those mentioned in question 53.

Q. 55. The readjustment of rent as suggested in the question is not possible only by the removal of zamindars and middlemen. No adjustment is possible, for instance, in the present khas mahals. If it is at all feasible to readjust rents on a uniform basis, we would recommend that the State should purchase also the raiyats' holdings and create economic holdings on a population basis, suited to the best interests of the country.

No, it is not possible without a new record-of-rights.

Q. 56. If a definite share of the produce is to be recommended we would venture to suggest it to be one-sixth share of the gross produce as it prevailed in the ancient Hindu times.

Q. 57. We are not for fixing rent in perpetuity but it should be alterable according to the money value of the produce or the other causes enumerated in the tenancy laws.

Any additional burden of taxation besides the revenue will fall harshly on the landlords and also on the tenants. In the Bengal Tenancy Act the time limit is 15 years and this is equitable.

Q. 58. We are strongly opposed to the substitution of an income-tax in place of rent, which is neither practicable nor feasible.

The result contemplated in the question will naturally follow.

Annual inquiries for purposes of assessment of income-tax will be highly expensive and harassing to all parties and will lead to corruption and malpractices.

Q. 59. We consider that the principles and procedure for enhancing and fixing fair and equitable rent under the Bengal Tenancy Act have not been defective. As the right of enhancement is hedged round with so many conditions favourable to the raiyats they cannot be deemed unfair.

Q. 60. A fluvial action improves the fertility of the soil and the landlord is the proprietor and he should get at least a share of it. In case of deterioration the tenants get reduction and in case of improvement the landlords should get increased rents. Cases of enhancement on the ground of fluvial action are not frequent.

Q. 61. We do not object to the principle and we are in favour of the existing provisions for enhancement due to rise in prices.

Q. 62. As the present rents are not fixed on the productivity of soil alone no question of making an allowance for the consumption of the cultivators can arise.

The principle enunciated in this question is not sound and will lead to absurd results. The rent of a raiyat with a family of three members and possessing five acres may on this principle be enhanced but the holding of a raiyat of 50 acres with a family of 60 members should not be enhanced.

Q. 63. If there were provisions in the law for reduction of rent on the ground of prevailing rate, nobody would object on principle to this ground of enhancement. Sufficient consideration cannot be given to improvement effected long ago at the raiyats' own expense because by lapse of time the means of determining the effects of these improvements under the restrictions imposed by the Bengal Tenancy Act render it impossible of application in practice and incapable of proof.

By no stretch of imagination salami can be called advance rent. Salami is the fine or premium or compensation paid for the extinction of the landlord's right in land in part or in other words, circumscription of the absolute ownership of the landlord by the partial statutory rights of the tenants, created by the settlement of the land to them. It is undeniable that the landlord would get more profit from it if kept in khas than if it is let to tenants. (*Vide* 13 W.R. p. 307, ss. 77 and 82 of the Bengal Tenancy Act.)

Q. 64. The sanctity of contract should always be respected. New settlements are made for khas lands of the landlord in limitation of his own rights of absolute ownership and no restrictions should be placed on the landlord's power of settlement on any rent or in any way he pleases nor is it wise to give a handle to the tenant to avoid the contract and to whittle down its terms. Competition rents are in vogue in England. Competition rent enhances the value of land. The rule of supply and demand should be the rule.

Q. 65. The procedure laid down in the Bengal Tenancy Act, Chapter X, for settlement of rent cannot be styled fundamentally defective. There is a difference between Part II and Part III. Part II may be amended and brought in line with Part III. Part II is applicable to temporarily settled estates and the working of this part has been entrusted to Settlement Officers who generally have an eye upon enhancement of rents and in some cases the vagaries of the Revenue Department operate harshly on the tenants in the temporarily settled estates. In the case of permanently settled estates the passport to promótion of Revenue Officers is the bias for the tenants and a bias against the zamindar.

Q. 66. We do not know of any such cases as mentioned in this question and so the remaining part of the question does not arise.

Q. 67. It is not correct to say that revisional settlements are made with the primary object of enhancing revenue in temporarily settled estates. But owing to the zeal of the Revenue Officers and as an incentive to the chances of promotion the practical effect in many cases is enhancement of revenue in khas mahals and temporarily settled estates.

Q. 68. We do not know of any particular permanently settled estate where the enhancement was obviously unfair.

Q. 69. Revisional settlement in temporarily settled estates is rendered necessary by the expiry of the term of settlement. Frequent settlements are a source of irritation and harassment to the tenants. The period of settlement may be increased. We are not in favour of the policy of enhancing rents in Government lands during depression. But as a matter of fact in this district rents in temporarily settled estates have been enhanced even during times of depression much to the detriment of the tenants. They have a legitimate grievance against this policy.

Revisional settlement in permanently settled estates should not be frequent as both landlords and tenants have to bear the costs and the recovery of the costs in years of depression operates harshly.

The tenants can have no grievance on the ground of enhancement as they can take advantage of the fall in prices and get reduction.

Q. 70. In our opinion rates of rent for similar lands in different districts and in khas mahals vary considerably owing to an absence of settled and uniform policy in determining rents. The question of the adoption of a uniform and a settled policy for all places is not free from difficulty, as rents vary from locality to locality and district to district.

Q. 71. We do not know of any case where such remission of revenue has been given in bad years. These rules are followed more in their breach than in their observance owing to bureaucratic methods. The rules may be simplified and the Collectors may be given wider powers.

Q. 72. The statistics supplied by the Land Revenue Commission do not appear to us to be very accurate. Annual Report on the Survey and Settlement operations in Bengal, 1936, at page 30 says for Mymensingh "average outturn per acre is equal to 22 maunds of aman, 18 maunds aus, 16 maunds of jute". In 1926-27 the price of jute rose to Rs. 27 per maund and the average yield per acre was about Rs. 225 per acre and the average selling price of land was about Rs. 600 per acre.

In Mymensingh more than one-third of the culturable lands are double cropped. In our estimate the average outturn per acre of a double cropped land in this district yielding jute and aman or aus and aman is as follows:

Jute—16 maunds per acre.

Aus—18 maunds per acre.

Aman—20 maunds per acre.

The average prices this year are—

Jute—Rs. 5 per maund.

Aus—Rs. 1-12 per maund.

Aman—Rs. 2 per maund.

The average yield of straw per acre is four maunds for aus and four maunds for aman and the average selling price is eight annas per maund.

In this district the average cost of production is for jute per acre Rs. 35, for aus Rs. 18, and for aman Rs. 17 and for sugarcane, for the first year Rs. 100, and for the next three years Rs. 50 per acre. So the average cost is Rs. 60 per acre while the average yield per acre of sugarcane is 600 maunds.

In this district of Mymensingh rent is not more than 6 to 8 per cent. of the gross produce.

Q. 73. Yes, the reasons are—

(*a*) want of manuring, and

(*b*) unscientific cultivaton.

The Government has taken practically no steps to improve the fertility of soil. The Government agricultural farms have got to show their utility. Nothing has practically been done in the distribution of manure and improved seeds. There is no record to show that from the Permanent Settlement up till now the Government has taken any effective steps to improve agriculture.

Q. 74. These Acts show their existence only on the statute book. They are of no practical utility. What the cultivators want is not legislation but money to improve agriculture and thereby to augment the means of their livelihood.

Q. 75. We are not aware of any sum of money spent in this district for the improvement of agriculture in khas mahals.

Q. 76. So far as our information goes salami is realised by Government at the time of settlement of new lands in khas mahals. This

practice is of long standing and we are not aware that any portion of it is applied to improvement of agriculture. (*Vide* Khas Mahal Report, 1938, by Mr. M. M. Stuart, I.C.S., Special Officer.)

Q. 77. The Government has done next to nothing to improve the condition of the raiyats. In every civilised country the Government is spending large sums to improve the production of wealth, and one of the primary source of the wealth of an agricultural country is the produce from land. The policy of the Government is not to spend anything to improve agriculture and thereby increase the wealth of Bengal on the ground of want of funds. If there is the will, funds would be forthcoming.

However we have no quarrel over this policy, for what cannot be cured must be endured.

The Permanent Settlement is the proverbial black sheep on whose shoulders all the ills that Bengal is heir to, are laid. We are noticing particularly nowadays a class of public men in Bengal who have been declaring at the top of their voice that let the Permanent Settlement go out of the picture and immediately a millennium will set in.

To them we have no answer to make. In our opinion they are seeing things with their eyes shut. Is it true that the raiyats in Madras under the raiyatwari settlement are rolling in wealth whereas their brother in Bengal is starving?

These public men are not looking ahead.

A glance at the *Calcutta Gazettes* of 1876 to 1884 and the reports of the Collectors of various districts contained therein will bear us out when we say that the peasantry in Bengal in 1881 was happier and more contented than the peasantry of today. We may argue that the Bengal Tenancy Act has inaugurated a new era which received aggravation in the Act of 1929, the logical corollary of which is the present day miserable plight of the peasantry.

The peasantry clamour for means of maintenance; they are being given "rights" by legislation and the public men sleep in complacence.

We say once again that the unrestricted right of transfer given to tenants is responsible for the fragmentation of holdings and thereby rendering them uneconomic from which the tenant can hardly get his "Dal bhat".

Jute is the pride and monopoly of Bengal. Unrestricted production and devaluation in the price of jute are proving a curse.

The production must be raised and the price of agricultural commodities must be enhanced.

Then this cry for abolition of Permanent Settlement will disappear and the problems of tenants' rents will be solved. Unless and until this is done it is no good to cry hoarse over the Permanent Settlement and the so-called inequitable character or amount of tenants' "rents".

The tenancy legislations are expropriletary enactments and are bringing ruin on the landlords and the cheapening of the rights of transfer are ruining the tenants. The Bengal Agricultural Debtors Act is going on merrily to destroy rural credit and what is still worse, the Government is yielding easily to the clamour of politicians who are out to exploit masses not with an eye to any benefit to the tenants but for purposes of self-aggrandisement.

This policy is broadcasting ruin and chaos all round.

Q. 78. According to the provincial Banking Enquiry Committee Report, for a family consisting of five members, the average income per family is Rs. 406 from agriculture and Rs. 44 from subsidiary occupations. Thus the total income a year of a family of the cultivating class is Rs. 450. And the Committee has estimated the average annual expenditure of the same sort of family as Rs. 420.

In the district of Mymensingh we would assess the average income of a cultivator from agriculture per acre per year with an average holding—

		Rs.
Of 3 acres	...	250
From other sources	...	50
		300

About 90 per cent. of the raiyats in the district can maintain themselves and their family from the income.

Q. 79. The suggested remedies do not appear to be feasible. It would be very expensive and disproportionate to the results anticipated.

Q. 80. We agree with the methods suggested in the question with the exception of (*v*). Cattle worth Rs. 5 cannot be insured.

We would suggest further—

(1) Fixation of a minimum price for jute.

(2) Creation of economic holdings.

(3) Prevention of subdivision of holdings.

(4) Railway freight concessions in respect of agricultural commodities.

Q. 81. We agree with the view expressed in the question. According to authorities agriculture can maintain 250 persons per square mile.

The mean density of population in this district is about 760 per square mile.

Theoretically speaking therefore 510 persons per square mile is the surplus.

But as we have said before about 90 per cent. of the cultivators can be maintained on income from lands.

Q. 82. We agree with the view expressed in the question. Cottage industries should also be encouraged.

Q. 83. Agricultural credit is gone. The Bengal Agricultural Debtors Act has destroyed all rural credit. There are no effective organisations, Government or private, which can restore agricultural credit. Every newspaper, every public body from various platforms has castigated this bad Act but without much effect. For fear of repetition we refrain from putting forward our arguments against this Act. This Act is a political stunt and is broadcasting ruin with a free hand alike to tenants and to landlords.

Q. 84. Whatever might have been the state of affairs 20 or 25 years back, it is now a notorious fact that mahajans are not getting a single pice either as capital or as interest.

Q. 85. Certainly not. Co-operative credit societies have hopelessly failed in tackling the credit problem of the agriculturists. The present rate of interest is not high but formerly it was so. The co-operative credit societies have not benefited the agriculturists.

We cannot give the exact percentage.

Q. 86. The Debt Settlement Boards have destroyed rural credit. Administration of justice has come to a standstill. Their constitution is such that they cannot command the confidence of the people. They are usurping the functions of the Civil Court and are deciding intricate questions of civil law, without education, without training, without any sense of justice and without any desire to do justice. They are an unmitigated evil and have become a byword of reproach. Their dilatory methods of disposal, deferring decisions and payments for an indefinite period, are ruining both creditors and debtors. Landlords specially have a legitimate grievance against these Boards. Various defects and remedies have been suggested by various local bodies and from various platforms, but without any appreciable effect. The Bengal Agricultural Debtors' Act should go, lock, stock and barrel. It is discrediting justice which is the foundation of the British Empire.

Q. 87. We wholeheartedly agree to this suggestion. But the banks should be run on business principles and should not be benevolent charitable institutions. Certificate powers should be given to these banks so as to facilitate punctual payments.

Q. 88. The Land Mortgage Banks have failed hopelessly. The funds at their disposal are totally insufficient for the need and they have not the guarantee of the Government for either capital or interest. Their methods are complicated and dilatory.

Q. 89. It is a notorious fact that at present the landlords are not getting their dues with the result of heavy accumulation of arrears of rent which are bringing them on to the verge of bankruptcy. The cry nowadays is that tenants should stop payments of rents and this will obviate the necessity of abolishing the Permanent Settlement. Agitators are teaching and encouraging evasions to tenants to fulfil their obligations, and thereby teaching the country to be dishonest. With the sword of sunset law hanging over their heads, the landlords must be, in all fairness, equipped with greater facilities for the speedy realisation of rent which are their just dues. The powers of distraint and eviction for non-payment are no longer in force. These powers are in force in England and other civilised countries. We would welcome the extension of the astam procedure as in the case of patni sales to occupancy holdings.

Corruption in Civil Courts should be put down at once with a high hand and dilatory methods should be remedied. Every public interest demands that the zamindar should have proper legal facilities given to him for recovering his rents as summarily as we make him pay the assessments upon him. (Colebrooke, XIV.)

Q. 90. We do not think that the recovery of rents through the Public Demands Recovery Act is harassing and objectionable.

We have suggested the remedies in our previous question. "The Certificate Procedure is not harassing to the tenants but is unpopular because it is efficient" (Mr. Stuart's Report).

Q. 91. We are not in favour of repealing the old Regulations and earlier Acts. We are overburdened with indiscriminate legislations. Frequent changes of the law and piecemeal legislation are engendering feeling of insecurity and disturbing the relations based on contract. People do not know where they stand.

Q. 92. The Revenue Sale Law operates harshly on landlords. A provision similar to Order 21, Rule 89 of the Civil Procedure Code may be introduced in the Sale Laws and a grace of 60 days may be granted after sale. Tenure may be protected if not collusive and fraudulent.

The question is too comprehensive and cannot be answered in the time limit fixed by the Commission, and this applies to many questions.

Q. 93. Landlords all over Bengal are losing 40 lakhs of rupees a year due to this Amendment. This is operating very harshly on the impoverished and harassed landlords. It being an expropriatary measure the status of the landlords has been called in question. It is a class legislation. It has conferred no real benefit upon the tenants. They have got "rights" but no bread. On the contrary, the unrestricted and indiscriminate power of transfer given by this Act will produce a huge body of landless labourers which will drag down body-economic of society and who knows it may not lead to revolution. The salutary check by pre-emption on indiscriminate transfers and the controlling power of it over land values have been done away with. The further evil effects on tenants have been fully dealt with in question 37.

"We may conceal the fact from ourselves, if we choose to do so, but no honest man can view this legislation (Act VIII of 1885, a hundred times more so with regard to the Act of 1938), but as a cancellation of the Permanent Settlement, in the midst of profuse assurances that we do not dream of doing so. The wisest course would be to make some arrangements with the zamindar for the open abandonment of the Settlement. What is not to be endured, is the highhanded repudiation and concealment of the engagement under pretences of respecting it and of merely adjusting the relations of the zamindar with his raiyats. The legislation is confiscation pure and simple as the zamindar protests it to be." The Act of 1938 attempts fifty times too much. It is an attempt to construct a new set of relations, customs and rights altogether. It abolishes wholesale, what the people wish to retain, and forces upon them regulations, that they will never conform to, but under compulsion. What wise legislature ever moves in this rash way in advance of the people?

Oral evidence of the Mymensingh Landholders' Association on 9th March 1939.

PRESENT ON BEHALF OF THE ASSOCIATION.

(1) Maharaja Sashi Kanta Acharyya Chaudhuri, M.L.A.

(2) Mr. Jnanendra Nath Lahiri, B.L.

(3) Mr. Jitendra Kishore Acharyya Chaudhuri.

(4) Mr. Surendra Nath Sen.

(5) Mr. Mahini Chandra Roy.

In reply to the Chairman, the Maharaja of Mymensingh **agreed** that as a result of subinfeudation holdings tend to become uneconomic. Subinfeudation however is not the result of the Permanent Settlement. The cultivators' present economic difficulties are

due to subinfeudation in the lower grades, i.e., subinfeudation by the petty bourgoisie who have obtained many rights by tenancy legislation.

As regards the reply to question 25, he said that to stop subinfeudation, he would take away the right of an occupancy raiyat if he sublets. He thought there was no harm in giving occupancy rights to under-raiyats but pointed out that under the present law, they do not acquire occupancy rights until they have been in possession for twelve years. If land is sublet by a raiyat, he was in favour of taking away the occupancy right from the whole holding.

Explaining his position that tenancy legislation has done harm to both landlords and tenants, he said that the free right of transfer and unrestricted use of land for non-agricultural purposes under the amended Bengal Tenancy Act has affected the tenants adversely. Rent is the least important factor in the tenant's budget. Another reason is that the Civil Court procedure is slow and cumbrous. Even when a decree has been obtained, only symbolical possession is given. Section 148 has not led to any noticeable expedition of Civil Court cases. The tenants must be taught to pay their dues promptly. This is only reasonable when one considers the sanctity attaching to the payment of Government revenue. He maintained that the tenants were happier in 1880, before the Tenancy Act was introduced. Their rent was realised more regularly and they did not fall into such large arrears. He agreed that Government should do more to develop agriculture. The Government farms are too experimental and not sufficiently demonstrative. He was in favour of a Government programme and would be willing to bear his fair share of the cost, provided he gets a share of the profits, but he thought that landlords would not agree to collect any additional tax. The landlords are already burdened with the collection of road cess and education cess in Mymensingh.

In reply to Maharajadhiraja Bahadur of Burdwan, he agreed that if a landlord has land in several districts and resides in one, he could not be considered an absentee in the other districts. Tenancy legislation has cut off the good relationship between landlords and tenants and the tenants no longer approach their landlords, as they used to do, for advice and help. Landlords used to advise their tenants regarding the cultivation of more valuable crops, but nowadays they are not even able to choose their own tenants. The tenants also can deposit their rent in Court. The result has been that the landlords have lost a great deal of their interest in the welfare of the tenants.

As regards the reply to question 11, he explained that 8 per cent. of the gross income from the land goes to the landlords and tenureholders and the balance goes to the raiyats. He opposed subletting

on the ground that it tends to make holdings uneconomic. He explained that the figure of 300 crores as the estimated cost of buying out landlords and tenureholders was based on land acquisition rates, i.e., 20 times the net profit *plus* 15 per cent. statutory allowance. He agreed that in case of State purchase, Government must acquire all rights above the raiyat. Each estate would have to be assessed to compensation on its own merits. Where the revenue is low, the value would be higher and *vice versa.* Minerals would have to be separately acquired. His estimate of 300 crores was for the acquisition of surface land only. He agreed that State purchase would break up the social and economical life of the province and ruin the middle classes.

As regards bargadars, he was not in favour of giving them occupancy rights even though they may have occupancy rights in their own holdings. Many bargadars continue cultivating some land from year to year and even for generations without occupancy rights. Nobody wants to evict good bargadars and occupancy rights are not necessary for them.

He thought that 90 per cent. of the raiyats in Mymensingh can maintain themselves, though not very comfortably, on a holding of 3 acres. 5 acres would maintain them in a reasonable degree of comfort and leave some margin. It is true that what is now an economic holding might, as a result of the laws of inheritance, become uneconomic within a generation. He was in favour however of one co-sharer holding the land and the others merely getting a share of the produce.

In reply to the Chairman, he explained that he was in favour of the "preferred heir", i.e., the remaining co-sharers would get their share but would have no connection with the land.

In reply to Dr. Mookerji, he said that he was in favour of allowing no fragmentation below a rental of Rs. 25. Sir F. A. Sachse pointed out that if this were adopted, very few holdings would be affected as the rent of the great majority is already below Rs. 25.

Continuing to Maharajadhiraja Bahadur, he said that he would advocate something similar to the astam procedure for landlords in rent suits against tenants, because of the great delays in Civil Court procedure. He would allow tenants one month to pay up, as in astam sales, and the landlords would be entitled to sue for arrears of one year's rent. As regards corruption in the Civil Courts, to which reference has been made in the reply, he mentioned that in the United Provinces, a Committee has been set up to enquire into this subject. As regards the conversion of land for non-agricultural purposes, he gave as an example the use of agricultural land for cutting

earth for brick manufacture. When the earth cutting can no longer continue, the land becomes waste. Either it has to be filled up at great expense or the tenant cannot pay his rent. The land then becomes khas and the landlord is left with the waste land.

In reply to the Chairman, he said that in his view, there should be some penalty on a tenant who uses agricultural land in this way.

In reply to Sir Frederic Sachse, he said that in 1928 the landlords opposed the right of transfer mainly on the grounds that the tenants did not possess this right at the Permanent Settlement and that the landlords would lose all connection with their tenants. Sir F. A. Sachse asked whether landlords have also objected on the ground that free transfer would be bad for the tenants themselves. The Maharaja replied that they had also objected on that ground. He said that in many cases landlords had actually used their *veto* prior to 1928 in order to keep out undesirable tenants. They had also exercised the right of pre-emption after 1928. He admitted that in Mymensingh thousands of tenants were in possession of land for 25 or 30 years before they applied for recognition by paying salami. The landlords dealt with such cases when they were found but they had no power to deal with part-purchases. He did not quite agree that the purchasers were known to the landlords and that they paid their rents marfatwari for the former tenants. Sir F. A. Sachse suggested that the proposal to give occupancy rights to cultivating under-raiyats was hardly consistent with the reply to question 25, that the growth of under-raiyats is undesirable and pointed out that subletting has already proceeded to such an extent that it is too late now to stop it. The Maharaja replied that at present the under-raiyats have not got economic holdings. The main idea was to give them such holdings. He thought it was not too late to stop subletting. He agreed that persons who lost their holdings have only their homesteads and some barga lands, but he considered that the barga system is for the good of the country,—even though the former tenants are paying half the crop instead of Rs. 2 or Rs. 3 per acre. He said that the Rent Law Commission of 1878 originated the trouble between landlords and tenants; previously their relations had been cordial, but after that the landlords gradually lost their incentive to look after their tenants' welfare. That however is not a reason why the revenue system should be changed. Government legislation has created the trouble, and the landlords cannot be penalised for it. He would not suggest that all legal rights should be removed from raiyats in order to restore the previous cordial relations, but said that the landlords must have some hold over their tenants, e.g., choice of tenants and control over transfers. He agreed that the Act of 1885 restricted leases to under-raiyats to 9 years and in 1928 occupancy rights were given to certain

under-raiyats because the restriction on sub-leases was never observed in practice. He suggested that subinfeudation should be restricted by limiting the rights of raiyats, by fixing the area of economic holdings, and re-establishing the right of landlords to choose their tenants. Tenants rarely pay their rent by money order. In his own estate, the tahsildars have had to go to the tenants for the last 20 years to collect rent. One reason why landlords formerly disliked the money order system is that the money orders contained mis-statements. He did not agree that rents are credited to arrears which are time barred. In his own estate all such arrears had been written off in 1342 B.S. He agreed that tenants often pay something to tahsildars to stop rent suits. If they are in arrears of 4 years, they may pay two years' rent and give the tahsildar something to prevent a suit for the remaining two years' rent. He agreed that the Civil Courts tend to sympathise with the tenants and are often too generous in granting instalments and other advantages. If instalments had been granted for 15 years in any case, he thought it must have been an exception. He favoured the restoration of distraint in theory, but thought that the tenants would object strongly as rights given should not be taken away. He had no information, based on old accounts showing the share of the crop received, to indicate that the fertility of the soil is decreasing.

In reply to Dr. R. K. Mookerjee, he said that since 1928 the tenants have paid nothing towards their debts. The present economic difficulties of the cultivators are not due to the land system. They are due firstly to fragmentation, secondly to speculation in land which has led them into debt, and thirdly to the fall in prices. Their rent is a minor consideration because it is so low. When the price of jute was at its highest level, the tenants' debts were the greatest. This shows that they were speculating in land. It is not a fact that enhancements of rent were made during the boom period.

In reply to Chairman, he explained that prices are now very much the same as they were before the war in 1912-16. The Settlement Department fixed some rents under section 105 between 1906 and 1912 but thereafter there has been no settlement of rent in the permanently settled area.

Continuing to Dr. R. K. Mookerjee, he said that the price of paddy was Rs. 2 before the war and is now almost the same.

Formerly the landlords had a duty towards their tenants in matter like education, but nowadays the relations with their tenants are purely legal and contractual. The landlords are not bound to do anything for their tenants in this respect, but would co-operate with

Government in any scheme. Government has done nothing for agricultural development, whereas in England large sums have been spent. [The Chairman said that Parliament had placed 20 million pounds at the disposal of Government for this object.] Landlords have no responsibility for marketing. Marketing however is desirable and it is bad for the tenants when prices fluctuate widely, e.g., the price of jute has gone up from Rs. 4 to Rs. 8. It would be difficult for landlords to collect rents in kind instead of in cash. They would have to establish golas in every village. There would also have to be some method of assessing the landlords' share of the crops in accordance with the fluctuations in its money value. This would be very difficult to work.

According to statistics the number of rent receivers in Bengal is about 22 lakhs and in Mymensingh district it is about 2 lakhs.

If the State purchased the zamindaris and tenures, there is no doubt whatever that stamp receipts would decrease heavily: instead of an income of 3·75 crores the income would be ·75 crores.

Explaining the quotation from Colebrooke in the reply to question 10, he said that the change of money value must be taken into account in considering the present level of rent. The value to-day is about four times what it was about the time of the Permanent Settlement.

Tenants would certainly prefer to remain under the zamindars rather than to come under the khas mahals. In Mymensingh Government has enhanced rents in about 22 khas mahal estates during the depression.

The rent payable for double-cropped land is not much different from that payable for single-cropped land nowadays. The value of the gross produce from double-cropped land is about Rs. 120 per acre.

In reply to Khan Bahadur Hashem Ali Khan, the Maharaja of Mymensingh said that the total cost of management of his estate including collection costs and litigation charges, is about 30 per cent. The cost of khas mahal management is said to be 15 per cent., but he thought that including law charges it would be much more. It is not a fact that landlords used to demand nazarana when tenants appeared before them. Donations were never realised in his estate when marriages took place. There is no begar system in his estate or in the districts. It is not true that tenants do not come to their landlords because abwabs are collected. In his own estate the tenants still come to see him. He agreed that Government have spent little

money on education, medical facilities and sanitation but said that the landlords have spent much on the same objects.

He agreed that Lord Curzon had not accepted Mr. R. C. Dutt's statement that the Permanent Settlement has led to great prosperity in Bengal, and greater ability to resist famines, but he did not agree with the Government of India's view. He did not agree that the share paid in Hindu and Moghul times by the cultivators was for the protection given by the State: that system existed only in the earliest times. As society developed, landlordism grew up. Khan Bahadur Hashem Ali Khan quoted from the Tagore Law lectures by Justice S. C. Mitter, pages 24 and 28, to show that the sovereign received the share for protecting the subjects and that the raiyats were proprietors of the soil subject to the payment of rent and that their rent was fixed. The Maharaja of Mymensingh did not agree with this view as the subsequent development of the reply will show, and said that Todar Mal's settlement was not given effect to in Bengal.

The profits of zamindars are obviously larger now than at the time of the Permanent Settlement but the tenants' profits are also greater. It has also to be considered that landlords have been deprived of part of their income by the abolition of transfer fees and the imposition of education cess. Police duties were taken away from the zamindars before the Permanent Settlement.

He explained that in the reply to question 9 when it is stated that the leadership of rural areas has fallen into undesirable hands, he referred to socialists, who are a class of educated landless people having no stake in the country. He did not agree that the tenants would be better off under Government. The tenants under khas mahals are now under a so-called national Government but they have gained nothing over the tenants in permanently settled areas. As an example he mentioned the case of a temporarily settled estate where the revenue has been enhanced periodically from Rs. 22 in 1852 to Rs. 832 recently, although the estate produces only boro paddy in 75 per cent. of the area, and the remainder is fallow. He did not agree that the amount of education cess in Mymensingh is insufficient provided that too great a portion is not spent on supervision charges. Government will get Rs. 16 lakhs from Mymensingh district and that should go a long way to provide for education. The Gauripore estate has given Rs. 58 lakhs in the last 48 years to charity, and the Mymensingh estate has given Rs. 42 lakhs in 45 years. He did not agree that it would be better for the State to take over and expend such sums. He mentioned that before education cess was imposed, the number of schools and pathsalas was greater than it is now. More

than 100 years ago, Mr. Hodgson in his controversy with Macaulay regarding the educational policy in Bengal had mentioned that there were 100,000 schools which were maintained entirely by the zamindars. Zamindars also made contributions to hospitals and charitable dispensaries. In 1897 such charitable donations by zamindars amounted to Rs. 97 lakhs.

The landlords formerly had a margin of profit from which they could spend money on such objects but now they are not even getting their rent. It is not correct to say that before 1928 the landlords did not receive substantial amounts in transfer fees.

Khan Bahadur M. Hossain compared the figures on pages 88 and 95 showing the value of the produce per acre, and suggested that if the area under jute in Mymensingh is 34 per cent. of the whole, then the net profit from jute and paddy on 3 acres should be Rs. 133-8. It was stated in reply that the figures represented the gross profits from the produce, and that the cost of cultivation had not been deducted. The average size of holdings in Mymensingh is about 3 acres. It is not correct however to say that the uneconomic size of the holdings is the reason why tenants find it difficult to pay their rents.· If this was so, more of them would have taken to labour. Until three or four years no cultivator in Mymensingh could be induced to cut earth; they considered it beneath their dignity. He agreed that some cultivators are now migrating to Assam. It is true that tenants get the lowest price for their produce at the harvest time and have to wait for better prices, but by that time they have already spent too much and hence failed to pay their rent regularly. There have been very few civil suits over the share of crops from barga land, but the number is increasing. The number of such suits is necessarily small because the bargadar who does not pay his share would certainly be changed. It may be true that Government has insufficient funds for the development of agriculture but the landlords are in the same predicament. Their profit nowadays may be many times greater than what it was at the time of the Permanent Settlement but it must be remembered that much of it goes to the intermediaries. He suggested that economic conditions may be improved by raising the price of agricultural produce and increasing the yield. He thought it would be very difficult however to make economic holdings, unless there were some arrangements for other professions and for the surplus population to migrate. He did not agree that the immediate cause of the tenancy legislation of 1885 was riots in Pabna district. In Moghul times the tenants paid a share of the crop as bargadars do now; but the cases are different, because in Moghul times the tenants had some rights whereas the bargadars to-day have none. He did not agree that

one class of bargadars finances agriculture. The landlords generally pay for the seed. It is not correct either that the bargadar takes all the risks of cultivation. His labour may be lost if there is a failure of crops but he has to pay nothing. Bargadars naturally own plough and cattle, as cultivation is their means of livelihood, and they get a share of the crop in return. He had compared bargadars to mill labourers because just as the mill labourers do not bear any expense of running the mills, similarly bargadars bear no expenses of cultivation. Transfer cannot be restricted to agriculturists but he was in favour of restricting the transfer of holdings below an economic size, as he had recommended in his memorandum.

In reply to the Secretary he explained that if a holding is below the economic size he did not mean that it could not be transferred, but that a part transfer should not be allowed and the whole holding should be transferred.

In reply to Khan Bahadur A. Momin he explained his statement that the Permanent Settlement was carried out on a scientific method was based upon the authority of Baden-Powell. At the time of the Permanent Settlement the country was in a very unsettled state.

He said that there is an annual influx of up-country labour into Mymensingh district because the raiyats think it beneath their dignity to do manual labour. The raiyats are now gradually learning that this is wrong.

He agreed that the profits of the landlords have increased along with the increase in money value but this is the same with the tenants also. He contended that in terms of money value there has been no increase of rent since the Permanent Settlement, and that considering the amount of rent paid at the Permanent Settlement rents should be enhanced. But he considered it justifiable that the landlords should not pay more than their present revenue because the assessment was very high at the Permanent Settlement, and cesses have subsequently been unjustifiably imposed. Proportionately the tenants' cess is not so high as the landlords'. He agreed that the question of future increases in the value of money was not considered at the Permanent Settlement, but he thought that consideration should be given to the landlords in view of their high assessment. Landlords now pay income-tax on *hats* (bazars), sairats and forest areas. Both landlords and tenants pay cess but the landlords pay on their gross income, whereas the tenants pay on their rent.

The following reasons have tended to decrease the interest which landlords used to take in the welfare of their tenants:—

Firstly, landlords can only sue at intervals of 9 months whereas they have to pay their own revenue regularly every kist. The rate of

interest on arrears of rents has been decreased so low that the tenants do not pay their rent in kists, but can use the money more profitably for other purposes.

Secondly, if the landlords effect an improvement they cannot under the amended Act obtain an enhancement.

Thirdly, landlords cannot choose their tenants and this has tended to cut off the connection between them

He agreed that the position of landlords is becoming increasingly difficult and that agitation is hampering collection. The tendency to demand reduction of rent is also increasing. It is certainly the duty of Government to improve the present situation and remove the difficulties of both landlords and tenants. It might be considered advantageous to abolish the present system but it depends on how it is abolished. If landlords are bought out tenureholders must also be bought out and Calcutta property would also have to go. Zamindari property used to be very valuable in Mymensingh and could be sold for 30 to 35 times the net profit. Nowadays there are no sales and buyers will not come forward because their position would not be secure. He could not suggest any definite rate of compensation without further consideration but thought that each case would have to be considered on its own merits.

In reply to Mr. B. K. Roy Choudhury, he agreed that all tenancy legislation has not been of real benefit to the tenants. The tenants' rights are now even better than those of zamindars. Rent-free raiyats are not better off than rent-paying raiyats—in fact they are worse off. A tenant who has paid no rent for 7 or 8 years is equally badly off. Peasant proprietorship would not solve the present agricultural difficulties. The principal needs are intensive cultivation and agricultural credit. If the landlords and tenureholders are removed, that would be nothing to solve the problem of pressure on the land.

He agreed that the disappearance of cottage industries has thrown an increasing number of people on to the land. Cottage industries should be revived in preference to the establishment of big industries. After the Permanent Settlement many zamindaris changed hands owing to the high assessment of revenue and during the following 50 or 60 years the zamindars got little profit from their estates. He was in favour of giving the astam procedure to landlords for one year's arrears of rent: that would help in realising the arrears of previous years. He was also in favour of transferring the collection of cess to union boards.

A tax on agricultural income would be a breach of the Permanent Settlement and he thought that the landlords could not bear further taxation. To tax them out of existence would be more reprehensible than abolishing the Permanent Settlement. He agreed that the abolition of the Permanent Settlement would destroy the middle classes.

In reply to the Secretary, he said that his figures in reply to question 72 giving the cost of cultivation include the estimated cost of the tenants' labour.

He said that the effect of the present enquiries under section 112 in Mymensingh has been that the tenants are withholding rents in the expectation that rents will be reduced.

Reply by the Nadia Landholders' Association.

Q. 1. There is no use discussing whether the description is exhaustive or not, suffice it to say that the zamindars have spent a good deal of their income for the benefit of the tenants and the public at large, though there was no such obligation on their part. The Permanent Settlement did not take away any existing rights from the tenants; as a matter of fact they had practically no rights whatsoever.

Q. 2. The right of a zamindar to choose his tenant existed from before the Permanent Settlement. Permanent Settlement recognised the right of the proprietors in the soil. Moreover justice demands that the zamindar should have the power to choose his tenants, because he is ultimately responsible for paying the Government revenue. A similar argument also applies in the case of regulating the usage of land.

Q. 3. It is no exaggeration to state that the major part of the economic development of the country since the Permanent Settlement is due to the part played by the landlords. It is true that some of the zamindars, of late, have not been able to perform their functions as well as before, but it is not their fault for the economic and social conditions of the country have changed to such an extent that it is no longer possible for the zamindars to act as before.

Q. 4. The zamindars had been the real proprietors of the soil even before the Permanent Settlement and they were only recognised as proprietors by the Permanent Settlement. They were not mere collectors of revenue. Much has been the controversy regarding this point; but the fact that Lord Cornwallis made the Settlement with a certain number of persons and not with others, goes to prove our contention.

Q. 5. Abolition of Permanent Settlement would certainly be breach of a solemn pledge. On the other hand, the question of tenants not being parties to it does not arise as they had practically no major obligations. Financial resources of the country were certainly not crippled, on the other hand it placed the financial position of the country on a sounder basis. Since the Permanent Settlement the zamindars and the subordinate landholders have been taxed in many ways which have augmented the revenue of the Estate. The zamindars have been spending a good deal for the good of the country.

Q. 6. All the three factors are responsible for the large increase in the area brought under cultivation since the Permanent Settlement, but it may be said without fear of contradiction that the initiative of the zamindars had played the most important part in the earlier days.

Q. 7. The increase is due mainly to the good management of the zamindars as also to the reclamation of waste lands by the tenants with

the help of the zamindars. The enhancement of rent has, if at all, played a very insignificant part in the matter.

Q. 8. Compared to the treatment to the zamindars by the Government, the zamindars have certainly treated the tenants better.

Q. 9. As already said, a large number of estates have been considerably improved through the industry, enterprise and good management of zamindars. It is true that there has been some amount of absenteeism at the present time and consequently the former close touch between the zamindars and tenants has been lost to some extent; but this is not the fault of the zamindars alone. It is due to the spirit of the time over which they have no control.

Q. 10. In so far as the carrying on Governmental work requires money, which was not available to the Government without the help of the zamindars, during the early part of the British rule in India, it can certainly be said that the Permanent Settlement was in the interest of the country. There was certainly no advantage gained by the landlords at the expense of the tenants. If advantage was reaped by anyone it was by the Government.

Q. 11. (*i*) This is not true inasmuch as the figure is exaggerated. Moreover, a large part of the income of the zamindars is distributed to others.

(*ii*) Subinfeudation of tenancy cannot be said to be merely due to the Permanent Settlement. It is to some extent due to other causes including some subsequent enactments.

(*iii*) Had there been no Permanent Settlement, enhancement of rent would perhaps have been higher because the zamindars having no security of their interest would have then tried to get as much as possible within the period of their temporary settlement.

(*iv*) The zamindari system can never be said to be oppressive though individual zamindars may be found to be guilty. On the other hand many zamindars are well known for their benevolence.

Q. 12. Certainly not.

Q. 13. Apparently it may seem that the State is losing considerable amount of money due to the continuance of the Permanent Settlement, but this is false economics. If we go deep into the matter we shall find that a good deal of money earned by the zamindars is contributed, a portion of which again thus goes into the coffers of the State in the shape of taxation. Moreover, we must not forget that the zamindari system has been responsible to no small extent for the economic development of the country, which has certainly enhanced the income of the State. We are against any of the three methods suggested in question 13.

Q. 14. We do not suggest either (*i*) or (*ii*) in question 13; but should it be decided to take any of the above two steps, the zamindars should be given reasonable compensation. The fixing of the amount is a question of detail, but according to usual methods of paying compensation the total amount should be not less than Rs. 250 crores. The compensation should be paid in Government of India bonds carrying interest.

Q. 15. Bonds should be redeemable as in that case some day the State may free itself of its debts to the zamindars. The period is a question of detail. Interest should not be less than 6 per cent. per annum.

Q. 16. It will lead to socialism.

Q. 17. If State landlordism is to be accepted it is proper that the interest of all intermediate tenureholders is also purchased. This will facilitate the State becoming a full fledged landlord. It is doubtful however if it will be of any advantage to the Government.

Q. 18. Some additional machinery would certainly be required; figures for the cost cannot be given.

Q. 19. Raiyats would not like to come directly under the Government. Khas mahal tenants are in most cases in a worse position than tenants under zamindars.

Q. 20. Permanent Settlement is not the only cause of subinfeudation and the creation of permanent tenures by zamindars. These have no special influence on the economic and social life of the raiyats.

Q. 21. There will certainly be a drift towards socialism.

Q. 22. If all the land is purchased by the State their khas lands may also be purchased by Government on payment of proper consideration. As regards homestead, an option should be given to the zamindars to retain it if he likes on payment of makarari rate of rent. The criterion should be the settlement records and subsequent changes therein.

Q. 23. The occupancy right as at present enjoyed by the raiyats is certainly a creation of British legislation and no such right existed in earlier periods.

Q. 24. Much has been the controversy regarding this question of proprietorship, but the zamindars were the actual proprietors of the soil from the pre-British period and the tenants were mere tillers of the soil on payment of rent to the landlords in the shape of money or part of produce.

Q. 25. Occupancy right should not be confined to actual tillers of the soil but a raiyat cultivating his lands by himself or hired labour as also a raiyat holding a part of his land in khas and part by settling under-tenants should also be protected. Raiyats who have sublet their entire holdings for agricultural purposes should also have occupancy right.

Q. 27. It was never the intention of the Permanent Settlement to give protection to non-agriculturist tenants. They cannot be given occupancy right.

Q. 28. No opinion at present.

Q. 29. Yes, they are on the increase; it is mainly due to the change in the system of village economy.

Q. 30. It is difficult to mark out any particular item or items as the cause of the increase; it may however be pointed out that cause no. (*ii*) is certainly responsible to a considerable extent.

Q. 31. It is difficult to ascertain the area held by bargadars. The majority of bargadars do not hold raiyati or under-raiyati lands.

Q. 32. The right of occupancy or other rights should not be extended to bargadars. They having no status in the land and cannot claim protection.

Q. 33. The barga system is certainly not the last word in sound economic management of cultivation; but under the present circumstances it is difficult to suggest any alternative.

Q. 34. The effect of giving occupancy right to bargadar may lead to the extinction of the barga system as the superior holders will try to keep the lands in their khas possession resulting in unemployment of the bargadars.

Q. 35. It depends upon the exigencies of circumstances. A maximum limit may be fixed by law. It should be 50 per cent.

Q. 36. There is no doubt that the wages are low but they are not so everywhere. They should be increased so that their economic position may be compared favourably with others.

Q. 37. Yes. The 1938 amendment has increased the tendency. It will be prejudicial to the interest of the cultivating class as a whole. Transfers should be restricted to agriculturists only; but this is not always practicable.

Q. 38. About 16 bighas.

Q. 39. Yes. Yes.

Q. 40. Attempt should be made for co-operative farming which will bring the benefit of consolidated holdings and cultivation will be more economic.

Q. 41. We have no objection to give special facilities to the cultivator in order to enable him to consolidate his holdings.

Q. 42. Of course accumulation of very large areas in one particular hand is undesirable. It is difficult to fix any definite limit; it will depend upon conditions prevalent in particular cases.

Q. 43. There is no doubt that coparcenary is detrimental to good cultivation. This evil can be minimised by co-operative farming or by mutual settlement between the coparcenaries.

Q. 44. According to suggestions in the previous answer.

Q. 45. There should be some legislative measure for compelling a co-sharer landlord to arrange for collection.

Q. 46. There can be no doubt that at the time of the Permanent Settlement it was presumed that the zamindars would be entitled to enhance the rates of rents payable by tenants; otherwise there could have been no justification for fixing the Government revenue at 257 lakhs out of a total of 285 lakhs, specially when the income of the zamindar would vary with good or bad years and on various natural phenomena.

Q. 47. The framers of the Permanent Settlement never contemplated fixity of the rates of rents in the case of tenants. Had it been so they would not have assessed the Government dues at such a figure. No zamindar would have cared to accept such unjust terms.

Q. 48. In view of the answer to question 47, no reply is needed.

Q. 49. The vast majority of the tenants have got no grievance against the Permanent Settlement as such. It may be that in particular holdings rent appears to be high but this is owing to change of circumstances. This can be remedied and there is no necessity for any drastic step.

Q. 50. It was not a mistake.

Q. 51. No.

Q. 52. The principle of determining fair and equitable rents in Bengal should be one which fixes rents by competition in the light of the principle of economic rent. No hard and fast rule can be laid down.

Q. 53. Here in Bengal in most cases rent is fixed by productivity and demand. It is true that in practice rates differ in different mauzas.

Q. 54. Not necessarily.

Q. 55. Rent of all lands cannot be uniform inasmuch as the produce and other factors are not uniform. Of course, a re-assessment of rents can be made after a thorough survey.

Q. 56. We are averse to this principle.

Q. 57. If such a step is taken there is no reason why the rates of rent should not be re-examined from time to time; such re-examination should better be done once in 15 years.

Q. 58. There would not be any such advantage. If such exemption is granted it is most likely that the majority of the estates would escape payment.

Q. 59. There is no material defect in the Bengal Tenancy Act in the provisions laid down for fixing fair and equitable rent.

Q. 60. It cannot be fair that a particular tenant should get all the benefit which accrues as a result of fluvial action; the improvement should be shared by all interested in the land.

Q. 61. Not necessarily. Of course enhancement should not be made unless there is a persistent rise in prices for a considerable time.

Q. 62. Such discrimination is not feasible in practice.

Q. 63. No objection. The tenants need not be afraid because the relation between them and the landlords is not a temporary one.

Q. 64. No objection if such a provision is made in law, excepting in cases where there may arise situation rent.

Q. 65. No immediate change is necessary.

Q. 66. No such case.

Q. 67. It is true that revisional settlements are made with the primary object of enhancing revenue.

Q. 68. Yes, there are many such cases. Many landlords had to abandon the idea of taking re-settlements.

Q. 69. On the whole, it would be unfair on the part of the Government to go on with revisional settlement and enhance the rent during the years when prices were steadily going down. The raiyats have a legitimate grievance on this ground.

Q. 70. It is due to the fact that the Government has no fixed basis for fixing the rent for khas mahal lands.

Q. 71. We know no case where the Government has given remission of revenue to the zamindars of permanently settled estates but in

many cases a considerable amount of arrear rents are not collected by the zamindars; thus the zamindar becomes the loser in years of failure of crops. This is most probably due to the financial policy of the Government. Improvement can certainly be made if a sound financial policy is followed by the Government. The framing of rules is a question of detail.

Q. 72. It is not possible to give a correct answer to this.

Q. 73. Productivity of the soil as such is not decreasing in Bengal, though it cannot be denied that in many cases where the land is in continuous cultivation for a long time the land has deteriorated. This is due to the want of scientific methods of cultivation. The stoppage of alluvial action and the discontinuance of indigo plantation have certainly contributed to the progressive deterioration of the soil. The Government has taken some steps no doubt but considering the magnitude of the problem that is negligible. Much more has to be done in this direction.

Q. 74. Not much. This is due to the ignorance of the vast majority of the agriculturists. The organisations set up by the Government under the Acts mentioned are also defective and there is much red-tapism as a result of which the ignorant agriculturists suffer.

Q. 75. Yes, such expenditure has been considerably restricted in recent years. This is due to bad financial condition of Government, which is the outcome of a policy not directed towards the real interests of the country.

Q. 76. Yes. The Government has not used such salami money for the improvement of agricultural conditions.

Q. 77. This is a very general question. There is no doubt that there is room for improvement in connection with the policy of the Government or the land system of Bengal. It may be suggested that consistent with the spirit of the time some modifications should be made without any serious prejudice to the interests of the landlords and tenants.

Q. 78. It is difficult to give an estimate.

Q. 79. The present system and organisation for the maintenance of land records is not satisfactory.

Q. 80. We subscribe to all the suggestions made in the question for increasing the income of the raiyats. Legal provisions must be made to stop the exploitation of tenants by unscrupulous business men.

Q. 81. Yes. Under the present condition of agriculture in this country unless sufficient improvements are made in it, at least 25 per

cent. of the people employed in agriculture should be absorbed in other lines.

Q. 82. Diversion of agriculturists to industries is certainly the chief means of relieving the pressure on land at present. Government should encourage and help private industry.

Q. 83. Unfortunately Government have not done much for the improvement of agricultural credit. No efficient organisation for this purpose exists.

Q. 84. It is difficult to give exact figures though there is no doubt that the cultivators used to pay a heavy interest. Some really efficient organisation should be set up for the purpose of supplying cheap agricultural credit.

Q. 85. The co-operative societies have done something in this direction but considering the magnitude of the problem, it is merely a drop in the ocean. Their interest rates, though not very high, should be decreased. The figures may be obtained from the Co-operative Department.

Q. 86. Debt Settlement Boards have not also been able to deal with the problem properly. The fundamental defect lies in the Act itself whereby unscrupulous persons are taking advantage though real sufferers are helped very little. The credit of agriculturists has gone down and their future is doomed.

Q. 87. If Government establishes agricultural banks in every union it would be certainly advantageous to the agriculturists.

Q. 88. The land mortgage banks have not also fared any better than the co-operative societies.

Q. 89. Yes. The Government on their part can realise their dues easily. The landlords should have some such inexpensive machinery to realise their dues both for their as well as the tenants' interests.

Q. 90. It is not harassing though in some cases there might be hardship. This evil can be remedied.

Q. 91. The old revenue laws should be made up-to-date with necessary modifications.

Q. 92. Yes, landlords should have an opportunity of setting aside revenue sale by depositing the arrears within a fixed period from date of sale.

Q. 93. The Tenancy Amendment Act of 1938 is prejudicial both to the landlords in general and to the tenants in particular. The loss of landlord's income owing to the abolition of transfer fees may be 50 lakhs or so.

Reply by the Noakhali Landholders' Association.

Q. 1. The description given in clause (1) of the duties and obligation of zamindars after Permanent Settlement is exhaustive. The Permanent Settlement did not take away any existing right or rights from the tenants.

Q. 2. The Permanent Settlement made the zamindars, proprietors of the soil. Thus it gave them the power to choose whom they would like as their tenants and to use the land to the interest of the province.

Q. 3. The landlords played a great part in the economic development of the country. They cleared jungles, reclaimed waste lands and made a wholesale improvement of all lands; provided facilities for irrigation and communication, dug tanks, and founded charitable dispensaries and educational institutions. Rural Bengal was what the zamindars made it. Majority of the charitable and educational institutions in Bengal are the creation of zamindars. The zamindars did not fail to perform the functions expected of them.

Q. 4. The zamindars were proprietors of the soil from before. They were only recognised and confirmed as such by the Permanent Settlement. They were never mere collectors of revenue. They had right in land as actual proprietors. Rights of the zamindars were defined even by Act of 1784 (24 George III Chap. 57).

Q. 5. The annulment of the Permanent Settlement would certainly be the breach of a solemn pledge given by the East India Company to the zamindars. The tenants were no doubt not a party to the contract and they had no right to be a party because both according to Hindu and Muhammadan law, soil belongs to the Crown and the Crown has the right to give it to any one it pleases. It merely recognised the right, viz., proprietary right, which the zamindars already possessed.

At the time when the contract was made between the Crown, i.e., the East India Company, and the zamindars, the revenue assessed was only a little less than what was collected as rents from the tenants. It was only after a century of labour, huge expenditure of money, that the total rental from tenants has increased. In view of the solemn promise given at the time by the Regulation that the revenue would never be increased or changed, it would not only be an act of injustice but a breach of a solemn pledge. It would neither be equitable nor honest.

Q. 6. The zamindars have helped to extend cultivation and are enjoying the fruits of their industry and good management. (*Vide* answer to question 3.)

The large increase in cultivation has been mainly due to the initiative and pecuniary assistance of the landlords.

Cultivation has not only increased owing to the enterprise of tenants and the increase in population but has been mainly due to the gratuitous help of the landlords, who have made waste and jungle lands habitable and culturable.

Q. 7. The increase in the rent roll is $\frac{3}{4}$th part due to the good management of the zamindars, one-eighth part due to enhancement of rent and not more than one-eighth part due to the reclamation of waste lands by the efforts of the tenants themselves. All the three factors helped in the increase of the rent roll.

Q. 8. There is no instance of rack renting by the landlords in this district.

The rent payable is, on the average, not more than Rs. 4 per acre—rather rate of rent in permanently settled area is not higher than that prevalent in khas mahal area.

If the Permanent Settlement enjoined on the zamindars to conduct themselves with moderation towards their tenants, they have more than fulfilled that obligation.

The rent which a tenant usually pays for one acre of land does not exceed Rs. 3-12 and it is usually Rs. 3. What does he get for one acre of land per year? He gets at least 15 maunds of jute, worth Rs. 75 and rabi crops, worth at least Rs. 25, total Rs. 100. Thus while the tenant gets Rs. 100 at least he is to pay only Rs. 3-12, i.e., 1/25th of the profit which he makes—and even this he does not pay and 1/3rd of the tenants is always in arrears and sometimes even half.

Q. 9. The zamindars did not fail in any duties enjoined on them by the Permanent Settlement. They have improved their estates by good management and by incurring heavy expenditure. Absence of some landlords now from the village is principally due to economic causes.

Q. 10. The Permanent Settlement was in the interest of Bengal economically, and for the good of all. For the time being, when it was made, the revenue system was for the benefit of the province itself. It has done good to all classes of landlords and tenants because of this Permanent Settlement. The all round ruin in which the agriculture of Bengal was involved at the time of Lord Cornwallis, and the terrible famine of 1770 imperatively called for drastic solution and accordingly Regulation I of 1793 was promulgated. It has made famine unknown in the province. *Vide* R. C. Dutt's Memorial to Lord Curzon. And Bengal peasants are better off than the so-called cultivators of other provinces, who have no right in the land, which they cultivate.

Q. 11. The zamindars never claim to be overlords over tenants nor do the tenants admit them to be so. There has been subinfeudation. This right was recognised and confirmed by the Regulations and any one having proprietory right has certainly the power to use it to his advantage. The cry that 80 per cent. of the income from land goes to the zamindars is not correct. 33 per cent. of rent remains in arrears, 20 per cent. for management and collection charges, 20 per cent. for litigation expenses, so what is left for small landlords whose number is 90 per cent., is hardly sufficient to keep body and soul together. Moreover, Government should never grudge the increase in value of a proparty.with which it parted 150 years ago.

Q. 12. The Permanent Settlement should not be abolished on any or all the grounds mentioned in question 11.

Q. 13. The total abolition of the zamindari system would be a breach of a solemn promise given by the Crown in 1793. The evils of temporary settlement are too well known to be mentioned again. Those evils led to the great famine which wiped off ⅓ of the population of Bengal with a fall of revenue which necessitated the introduction of Permanent Settlement. The imposition of a tax on agricultural income would nullify the provisions of the Permanent Settlement, which made revenue fixed forever.

Q. 14. In case Government intends to purchase the interest of all the zamindars, Government should pay at least 20 times the gross income. The total sum required would be about 300 crores of rupees.

Q. 15. If compensation at the above rate be paid in bonds, they should be permanent and not redeemable. The rate of interest should be 4 per cent. per annum

Q. 16. The purchase of zamindaris by the Government would no doubt change the social structure of Bengal. But in view of the recent enactments doing away with almost all the legitimate rights of the landlords and saddling them with additional taxations and the new education cess and the hardships the landlords are suffering in consequence, the delaying tactics resorted to by the tenants under spacious provisions of the Bengal Agricultural Debtors Act, they are willing to part with their zamindaris, if they get a fair compensation.

Q. 17. In case the Crown is determined to buy up the rights of zamindars, it should purchase the rights of the tenureholders as well.

Q. 19. Those who are really raiyats, not those political agitators, who have neither raiyati holdings nor tenures, and who have nothing to loose and who pose themselves as friends of the raiyats, never prefer to come under Government direct. Far from enjoying any

advantages over tenants under zamindars, the khas mahal tenants pay rent at almost double the rate; they are not allowed to be in arrears and rents are sometimes realised from them by means of Government gurkhas.

Q. 20. Subinfeudation or the right to sub-lease by zamindars was recognised by Regulation I. It was a right compatible with the proprietary right of the zamindars. When owing to the tenants being bad it was difficult to realise rent from them, subinfeudation was resorted to just after the Permanent Settlement and it is even now being done for exactly the same reason. The position of the raiyats had not been changed in any way by subinfeudation. The tenureholders, who are local men, are better able to realise rents from tenants than zamindars, who hold estates in different districts.

Q. 21. *Vide* answer to question 16.

Q. 22. If the zamindaris and tenures are purchased, the homesteads and khas lands should be immuned. The test of finding out khas lands will be the same as is given in the provisions of the Bengal Tenancy Act and the rulings under it.

Q. 23. The occupancy right of raiyats is a creation of British legislation. The term came in use for the first time in Act X of 1859. Before these there were khudkasht raiyats, i.e., those who lived in the village and held lands therein—they were of course protected from eviction, if they paid rent. Act X of 1859 settled the unsettled ideas by fixing a 12 years' period of prescription.

Q. 24. The cultivating raiyats were never the actual proprietors of the soil. The king was always regarded as the "lord paramount of the soil". Indeed the property in land as a transferable mercantile commodity, absolutely owned, is not an ancient institution but a modern development only.

In the greater part of the world, the right of cultivating particular portions of the earth is rather a privilege than a property. Rent is never a tax.

Q. 25. We are not in favour of maintaing or extending the right of occupancy to more than one grade of tenant.

Q. 26. Occupancy right should never be confirmed to actual cultivators alone, but to all those who are entitled to gain them by statute, as enumerated in Bengal Tenancy Act of before 1929.

Q. 27. The Permanent Settlement only gave protection to one class of tenants, viz., "khudkasht" tenants. Thus Mr. Shore writes (Harrington's Analysis, Vol. II). "There are two other distinctions

of importance with respect to the rights of the raiyats. Those who cultivate the lands of the village to which they belong, either from length of occupancy or other cause, have a stronger right than the other, and may in some measure be considered as hereditary tenants. The other class cultivate lands belonging to a village, where they do not reside. They are considered tenants at will." Non-agriculturists should not be debarred from occupancy rights, when they purchase or gain lands with rights of occupancy. In fact many in Bengal own lands which they do not themselves cultivate and it would be preposterous and dishonest to deprive them of the rights of occupancy and confer them on those labourers who, for mere wages or for part of the produce, cultivate.

Q. 28. There is no reason for levying an additional tax by the State on lands converted for non-agricultural purpose. The land belongs to the landlord who is the proprietor and he is entitled to use it in any other way than cultivation. The State has no right or power to interfere, it having divested itself of all proprietary interest in favour of the landlord. Imposition of additional tax by the State would surely retard the improvement of land even when necessary. The landlord has the right either to allow such uses or to sue for ejectment for using the land in a way which renders it unfit for the purposes of the tenancy.

Q. 29. There is no great increase in the number of bargadars or others cultivating on a share of the produce. The cause of a slight increase in their number is due to the fact that the bhadralok class is migrating to cities for economic reasons and leave their lands to be cultivated by others.

Q. 30. None of the causes mentioned in question 30 has contributed to the slight increase in the number of bargadars.

Q. 31. The area normally held by a bargadar is not uniform in all places. In this part the area held by a bargadar is about 5 or 6 bighas, i.e., 2 or 2½ acres.

The area held by a bargadar varies almost every year, many bhadraloks have taken actual cultivation in view of the trend of legislation which may ultimately deprive a man of his khas lands acquired with good money for his maintenance. At present not more than 3 per cent. of the land is cultivated through barga system.

Q. 32. The majority of bargadars hold occupancy rights in other lands. The right of occupancy should never be extended to bargadars with respect to their barga lands for they are mere labourers having no interest in those lands.

Bargadars are carrying on respectable professions and their status is higher than that of day labourers. Any attempt at giving bargadars right of occupancy will reduce the bargadars to the position of day labourers.

Q. 33. The barga system can hardly be called unsound. It gives lands to persons who have not the means to purchase or take settlement of them. With a small holding not sufficient for meeting all his wants, the cultivator becomes a bargadar with respect to other lands. He is only to provide labour himself and gets half the produce, this is a great asset to him.

Q. 34. To give occupancy rights to bargadars would not only be a great anomaly but a great injustice too. A man has purchased 10 acres of land at a price of Rs. 2,000. He lets out the land in barga, the bargadar without spending a farthing, gets land worth Rs. 1,000. It will be most inequitable too. People such as zamindars and others will not let out their lands in barga and will rather prefer to keep them under khas cultivation. Thus many, who gained their livelihood by these means, will fall in difficulties and will be out of employment.

Q. 35. The fair proportion of produce payable by a bargadar is half the produce and this is well established by long usage and custom. No law should be enacted for fixing the maximum limit.

Q. 36. The wages of an agricultural labourer per day vary from 4 annas to 8 annas in East Bengal in accordance with demand. A bargadar is generally better off than an agricultural labourer. The former always gets a fixed amount as his share while the latter gets wages only in season time and soon spends them away.

Q. 37. The rights of transfer of holding given by the Act of 1929 was indeed a great evil to the raiyats. They are improvident and there was no check in their voluntary transfer of holdings or those sold away in execution of decrees against them.

There was a little check on transfer as landlord's fees were to be deposited and there was the right of pre-emption by exercising which for their dispossessed tenants the zamindars re-purchased those lands and let them have the lands again.

This little check was done away with by the new Act of 1938, which took away the right of the zamindars to have 20 per cent. salami and the right to pre-emption.

The result is disastrous. By a stroke of pen and a hasty legislation, the proprietary rights of the zamindars are taken away. Their right of pre-emption is gone. The tenants are allowed unrestricted liberty to transfer their holdings at will and none is there to restrain him.

Within 30 years the Bengal tenants will be mere labourers, as in other provinces. The measure does not benefit the raiyats for whom it is intended, while it ruins the landholders.

In our opinion, jote rights should be non-transferable as before 1929 or if made transferable, transfer fee and the right of pre-emption should not be abolished, but should be retained as before. It would be impossible to restrict transfer to agriculturists alone, because most of them have not the means to buy—and any measure to so restrict it would only bring in more confusion and anomaly.

Q. 38. There can hardly be any fixed standard of an economic holding, it will vary largely in proportion to the members and demands of the family, which owns it.

Q. 39 & 40. Raiyati holdings are becoming uneconomic, owing to the (1) Hindu and Muhammadan laws of succession and inheritance.

(2) Jote rights being made transferable without the slightest check.

Consolidation of holding is desirable no doubt, but not practicable, so long as the laws of inheritance remain in force, and jote rights are allowed to be transferable.

Q. 41. Cultivators must have funds to purchase holdings to increase their lands. Unless there be Crown grant of lands without charging any price for it, there is hardly any special facilities, which can be given to a cultivator to increase his holding. The zamindars will have no objection to give facilities to tenants to consolidate their holdings at their own cost.

Q. 42. There should be no limit to a man acquiring lands, if he has the means to do so. Artificial restraint enacted to prevent acquisition of many raiyati holdings by one man will hardly produce any good; nor is it practicable.

Q. 43. Co-parcenary is inevitable so long as the laws of inheritance remain in force.

Q. 44. Nothing can be done to stop the evil effects of co-percenary and fragmentation in estates and tenures, unless the laws of inheritance are changed.

Q. 45. No, the Bengal Tenancy Act contains provisions for appointment of common managers under certain conditions.

Q. 46. One of the means, adopted by landlords for increasing their income, was certainly enhancement of rent or rates of rent.

Q. 47. The framers of the Permanent Settlement never contemplated the permanency or fixity of the rates of rent in the case of tenants then existing or who might subsequently come on the land.

By the Permanent Settlement there was full recognition of the right of zamindars to let the land comprised in the zamindaris to whomsoever they pleased and in whatever manner they pleased (*vide* section 52 of Regulation VIII of 1793) excepting lands comprised in any mokarari (under section 52) or taluks (under section 51) and also except lands that were in occupation of khudkasht raiyats (section 60, clause 2). There were cetain restrictions. The restrictions do not refer to the amount of rent; they refer merely to illegal cesses and abwabs. The Regulations speak of pargana rates, *vide* Regulation XLIV of 1793.

The preamble says:—

(1) That at the renewal of a patta the rate of rent was to be determined by the contracting parties.

(2) That there exist certain usages of pargana rates.

(3) That according to established usages the Government was entitled to get a certain proportion of the annual produce of every plot of land.

(4) That the proprietor of land was to get it after Permanent Settlement.

Thus the pargana rate was a certain proportion of the annual produce of every plot of land which, according to ancient usages, was the share of the ruling power which was made over to the zamindars by Permanent Settlement. Thus the zamindars would be entitled to all advantages arising from the increase of prices. The foregoing restriction of pargana rates might have applied to khudkasht raiyats or resident cultivator raiyats, but with respect to newcomers there was no reservation; they were to be bound by contract under which they held lands.

Q. 48. There was a great encroachment on the right of zamindars by section 50 and section 6 of the Bengal Tenancy Act by which presumption of fixity of rent was held to be deducible from 20 years' payment of the same rent or rate of rent.

By the Permanent Settlement, the revenue was fixed for ever. The zamindars were made proprietors of the soil, which empowered them to let out their lands on whatsoever terms they liked without any State interference.

Q. 49. There was no intention of the framers of the Permanent Settlement that the rents of the tenants, then existing, should never be increased. *Vide* answers to questions 47 and 48.

There is no necessity for reducing the present rent and there is no standard to determine the rent or rate of rent prevailing at the time of Permanent Settlement. Nor is it practicable to determine who are

successors in interest of those who were raiyats then and who came in subsequently.

The zamindars were enjoined to treat the tenants with moderation which conveys no idea that tenants would be allowed to enjoy land at a fixed rate forever.

Q. 50. Zamindars being proprietors, they have the right to get a certain share of produce of every land and so if the price of food crops rise, necessarily the rent, which is nothing but produce reduced to money value, must also rise. Government was perfectly right in providing for enhancement of rent on the ground of rise of prices of staple food crops.

The last portion of the question does not arise.

Q. 51. It was not the intention of the Government that zamindars would settle all lands at pargana rates.

Zamindars being proprietors of the soil, they have every right to settle the lands on any terms they liked and enjoy a substantial profit.

Again pargana rates are vague. They were not definite. They were different with respect to different tenants. They might be one with respect to khudkasht raiyats, different as regards other tenants who took new lands and who were not resident cultivators.

Q. 52. *Economic rent.*—The various modes, enumerated for determining the so-called economic rent, will only bring in confusion. There cannot be any common standard in the cost of cultivation and the fooding expenses of an agriculturist's family, every year and in every part of Bengal. Family members may be more or less in different families.

A huge expenditure will have to be incurred in accepting share of produce as rent. Moreover, this will fluctuate every year. The same difficulty will arise in determining the market value of each holding, for it will be different in different parts of Bengal.

Customary rates are also impracticable to find.

Rent in kind instead of in money should bring more hardship on the tenants. And if the system of rent in kind is introduced it should confer power of destraint on landlords.

Q. 53. So far as the Government estates are concerned, the rates of rent are much higher than those of permanently settled estates. Moreover, we do not exactly know the basis on which Government fixes its rate of rent.

So far as an estate is concerned it consists of different mauzas or villages situated in several districts and the rate of rent cannot therefore be the same in all villages of one estate.

Q. 54. It is not true that weaker and poorer tenants pay higher rents, and there is no reason for such discrimination. The settlement of lands was principally based on the productivity and demand and supply of it. And when once the rate was so settled in a village it became customary rate with respect to that village and underwent very little or no change during all the years.

Q. 55. Even assuming that all the zamindars and middlemen are removed, readjustment of rents on a uniform basis throughout the province is not possible and there can be no change with respect to the rates of rent prevailing in different mauzas. Lands in Bengal are not of the same kind everywhere, so it is not practicable to frame a uniform rate in all parts of it.

Q. 56. To take rent in kind or its equivalent in cash is impracticable as previously stated. To determine it, will require a huge amount of expenditure and labour every year and this will be for no purpose. Moreover, it will be an innovation, which is conducive neither to the welfare of the tenant nor to that of the landlord.

Q. 57. Rents should never be fixed in perpetuity. Neither can it be altered on the needs of the State from time to time. They may be enhanced, if there are sufficient grounds as embodied in the Bengal Tenancy Act.

Q. 58. The question is difficult to understand. Whether the framer means raiyati rent or revenue to be paid by landlords is not clear. Perhaps, he makes a confusion between the two words "rent" and "revenue". If he intends to mean "rent", the suggestion will practically deprive landlords of at least 20 per cent. of the rents realisable from tenants. If he means "revenue" payable by the landlords, then as there are more than 80 per cent. of small landlords, they would be exempted from payment of revenue and will enjoy their estates revenue free. Revenue can never increase because it was fixed forever by the Permanent Settlement.

Q. 59. There is no defect in the procedure for fixing fair and equitable rents and for enhancing rents in the Bengal Tenancy Act.

Q. 60. Landlords are proprietors of the soil. If the productivity of the land has increased owing to fluvial action and the tenants get more or better crop, it is but reasonable that the rent should also increase. It is unfair that a tenant should get the sole benefit of improvement, and the State or the landlord, who has got the rights of the State, should get nothing.

Q. 61. On the same ground, there should be enhancement of rent on account of rise in prices of staple food crops.

Q. 62. It would be inequitable to give up enhancement on the ground that the whole produce of the tenant would be consumed in meeting the family needs. And if once this principle is adopted there would be no enhancement and no end of litigation in finding out whether the produce got by a tenant is sufficient for his family needs or not.

Q. 63. Advance rent and salami are two different things. Salami is what is paid as nazar to the landlord for taking settlement of land and advance rent is rent for 2 or 3 years paid in advance. In East Bengal there is no case in which advance rent is paid for raiyati land. There was first the pargana rate applicable to khudkasht tenants only, then came the word prevailing rate, i.e., the rate of rent paid by tenants in a particular mauza.

If other tenants pay a particular rate of rent, there is no reason why a particular tenant whose rent is less should not pay at the same rate. If the raiyat has improved his holding or land which was lower in value, the Court in granting enhancement should certainly take that fact into consideration.

Q. 64. There should not be any provision for reducing contractual rents or for limiting rents for new settlements. There may be provision for reduction of rent on the ground of fall in the price of staple food crops—to obviate hardship on tenants.

Q. 66. In granting enhancements under section 105, Bengal Tenancy Act, the Settlement Officers and Special Judges rather erred in leniency towards tenants and there is absolutely no reason to doubt their ability and impartiality.

Q. 67. Revisional settlements are sometimes made with the object of enhancing revenue.

Q. 68. No.

Q. 69. We do not know of any such instance.

Q. 70. We are not conversant with rates of rent in different khas mahals of the Government of Bengal. Perhaps rents vary according to local conditions.

Q. 71. The zamindars are not as a rule allowed remission of revenue in any circumstance. We do not know of any instance in which, this has been done, in the Noakhali district. The conditions, enumerated in question 71 for remission of Government revenue, are such as cannot be proved and the procedure being impracticable has never been

availed of in East Bengal. Even when the tenants do not pay rent, revenue has to be paid, otherwise estates are sold away.

Q. 72. So far as agriculturists are concerned, they have not to incur any cost of cultivation as they or their family members plough and reap themselves.

Even when day labourers are engaged for particular times, the total cost per acre in the case of jute does not exceed Rs. 15 and in the case of paddy Rs. 10.

Q. 73. There are no materials before us to show that the productivity of the soil of Bengal is on the decrease. The measures taken by the Government to improve the fertility of the soil are not adequate.

Q. 74 & 75. We do not know anything about these questions.

Q. 76. Salami is realised by the Government at the time of settlement of new lands in khas mahals. No portion of salami is utilised in improving the agricultural condition of those lands.

Q. 77. In our humble opinion, the land revenue system of Bengal is not responsible for the condition of the raiyats. They always live beyond their means and incur debts which they cannot pay.

The districts of eastern Bengal are jute growing districts. The price of jute has fallen down. Unless a standard price of jute is fixed and enforced by statute, there is hardly any possibility of improving the condition of raiyats.

Q. 78. Thrifty tenants are able to maintain themselves from the produce of their land.

Q. 79. The method suggested is hardly practicable and it will entail a huge cost and will give rise to endless controversies as to the truth of the entries.

Q. 80. We are in agreement with the suggestions contained in the question for the increase of the income of the cultivating raiyats. But we think that their condition cannot be improved unless there be substantial State aid and more wealth comes in the province. And this is possible if the crops which they grow, especially jute, gets a decent price which it will never fetch, unless there is legislation and small industries are encouraged.

Q. 81. We do not think that the pressure of population is the main reason of the poverty of agriculturists.

Q. 82. To divert them to large and small industries by starting Government aided factories is no doubt one of the means for relieving the pressure of population.

Q. 83. Agricultural credit can be increased when men believe that if they lend money to agriculturists they would get back their money. But this belief has been sadly shaken by the Bengal Agricultural Debtors Act. Unless that Act is repealed or salutary provisions are introduced, by which applications are to be filed before Munsiffs and appeals are to be preferred before Subordinate Judges, agricultural credit is gone for ever in Bengal at least. Private mahajans were ever ready to help the agriculturists. They are now shy because of the Bengal Agricultural Debtors Act. It is not possible for the Government to supply the needs of every agriculturist in Bengal.

Q. 84. We do not know whether 25 per cent. of the gross produce of land goes to the mahajans every year. But a portion is spent for payment of interest. Now the mahajans have fallen into difficulties. Their ruin is staring them in the face and 90 per cent. would be satisfied with the principal amount lent, with a small sum as interest. Is the Government ready to find out that sum? If it is so, the debts of the agriculturists may be wiped off in no time.

Q. 85. Co-operative credit societies are sheer failures in tackling the credit problems of the agriculturists. The system of lending is bad and owing to the paucity of competent officers in the department, Government has incurred only loss after loss.

Q. 86. The principal defects besides those mentioned in answer to question 83, are:—

(1) Rent should never have been included under the operation of this Act. It has been a great hardship to landlords in as much as they are liable for prompt payment of revenue while payment of their dues are indefinitely postponed.

(2) Sanctity of contractual relation is brushed aside and ignored.

(3) The personnel of all Boards under the Act are highly unsatisfactory and this has rudely shaken the faith of the people in the British administration of Justice.

(4) Arbitrary and summary powers has been conferred on unlettered persons without the slightest knowledge of law and procedure without any check even from the Highest Court of Justice and even the appearance of lawyers have been shut.

(5) Rural credit is almost gone due to the operation of the Act.

(6) The administration of justice in regular courts has been paralysed.

Q. 87. The suggestion is good no doubt, but it will not be practicable.

Q. 89. To confer facilities for speedy realisation of rent was an obligation which the Government took upon itself at the time of Permanent Settlement.

The various Bengal Tenancy Acts passed, have made rent suits costly and lengthy. There are instances where, for a claim of 12 annas or Re. 1, Rs. 15 to Rs. 20 are to be spent, when there are co-sharer landlords and tenants. The time spent is never less than 1½ year or 2 years.

In helping the landlords in speedy realisation of rent, there should be drastic change in the Bengal Tenancy Act, and a provision added in it by which as soon as a tenant is in arrears for 4 years or so, on the expiration of a prescribed period, he will no longer be a tenant having right in the land but a trespasser only and the landlord will be entitled to eject him.

In the opinion of this Association, the procedure for rent suits should be simpler and more speedy. As for instance, in the place of serving summons on co-sharer landlords and tenants, there should be a provision for service of registered notice or summons and on the expiry of the time fixed (never exceeding a month) a decree should be passed at once and instead of the elaborate rent execution proceedings, the decree should be executed forthwith without a formal application for the same. The provisions of Act VIII of 1819 (Patni Regulation) should be made applicable to rent suits. Excepting those estates which are managed by the Court of Wards, at least 30 per cent. of rent remains in arrears every year in the case of most other estates. Tenants have means to pay, yet they will not do so.

Q. 90. Recovery of rent through the Public Demands Recovery Act is neither objectionable nor harassing. This special power should be more widely given to landlords, so that they may easily realise their rents. Section 158A of the Bengal Tenancy Act should find place in the statute without the imposition of maintenance costs.

Q. 91. We are in favour of retaining the old Regulations and we are rather afraid of new legislations, hastily complied and more hastily made into laws.

Q. 92. In the Civil Procedure Code and in the Bengal Tenancy Act there is provision that if a property is sold in execution of a decree, the sale can be set aside if the decretal amount with 5 per cent. compensation be paid to the purchaser within a certain time. But in the Revenue Sale Law there is no such provision. We would welcome some such section in the Revenue Sale Law itself.

Q. 93. The economic effect of the Tenancy Amendment Act of 1938 is disastrous on the landlords and the tenants. By the Permanent

Settlement up till 1938, the landlords were recognised as proprietors of the soil and jote rights were non-transferable. In 1929, there was a compromise, which recognised the proprietary right of the landlords and allowed them 20 per cent. salami and the right of pre-emption and they agreed that the jote rights may on those conditions be transferred. But the amending Act of 1938, confirmed the transferability of jote right, while it abolished the provision of 20 per cent. salami and the right of pre-emption. By a stroke of pen, on the face of opposition of all landlords, the Bill was made an Act.

The average income from landlords' fees amounted to about one-tenth 'of the annual gross income and the Bengal Government has thought fit to deprive the landlords of this for no fault of theirs. By taking away the right of pre-emption from the landlords, the Bengal Government has conferred it on the co-sharer raiyat.

While causing this heavy loss to the landlords, has the measure benefited the tenants? Certainly not, if transferability of jote rights remains as it is now without any check, these tenants, at least a major portion of them, will be landless within the next 30 years and land will go to a handful of persons.

In addition to those enumerated above some other defects of the Bengal Tenancy Act are:—

(1) Suspension of the enhancement of rent.

(2) Retrospective effect of wiping off usufructuary mortgage debt after 15 years.

(3) Remission of rent in the case of diluvion keeping the raiyats' interest in tact, without any proportionate remission of revenue.

(4) Abolition of section 158 (A) of the Bengal Tenancy Act.

(5) Conferring the right of pre-emption on co-tenants.

Reply by the Sundarban Landholders' Association.

Q. 3. Although exhaustive data on this point might not be easy to get, there is not the least doubt that the zamindars have played a very important part in the economic development of Bengal. The reclamation and utilization of the Sunderban lands, particularly, are due entirely to the initiative and capital outlay of the zamindars of the area. Furthermore, the contribution of the zamindars to the economic development of the province should not be judged in terms of agriculture alone, nor should the economic criterion form the sole standard for judging the usefulness of a class of landed proprietors. A landed aristocracy has other important social and cultural functions to discharge in addition to development of the land. Their contribution to the community should be judged by this wider standard. Even though all zamindars might not have been equally energetic in developing land themselves, they have in their own interest, always helped and encouraged these efforts.

In our opinion, the zamindars have not failed to perform the functions assigned to them by the Permanent Settlement. The Settlement expected them to pay the Government revenue regularly and to extend to their own tenants the same liberal treatment they received from the Government. This the zamindars have always done, in many cases at great sacrifice to themselves individually.

Q. 5. Annulment of the Permanent Settlement would be a clear breach of pledge; the assurances given at the time leave no doubt whatever on this point. The agreement was between the zamindars and the Government and it was concluded with full knowledge that a third party indirectly involved in the agreement existed. There was nothing in the nature of the Permanent Settlement (which was a bilateral agreement between the Government and the zamindars for the realization of revenue) calling for or making necessary, legally or morally, the consent of the tenants. The rights of the latter were fully protected within the system and within the terms of the Settlement.

So far from crippling the financial resources of the country, the Permanent Settlement gave a financial stability to the Government which towards the end of the 18th century and the beginning of the 19th would have been impossible to secure otherwise. The fixity of land revenue was decided upon in full consciousness that thereby the Government debarred itself from raising the assessment of land at a future date. There is no reason why the fixity of land revenue should constitute a financial handicap. The zamindars are not and have not been immune from other existing forms of taxation.

Q. 6. Refer to answer 3. There is no doubt about the initiative of, and assistance from the zamindars. Whether the increase in population is responsible for the extension of agriculture raises another extremely difficult question, viz., to what the increase in population is itself due. Increase of population is as much an effect of economic stability and progress, as a cause. It is impossible to apportion the credit for the development of the land between the zamindar and the tenant. It is exactly like trying to find out whether capital or labour has contributed more to industrial development.

Q. 7. All three factors are responsible, the third factor (enhancement of rent) can be statistically measured. The other two are intangible and impossible of quantitative measurement.

Q. 8. There are exceptions to every general statement. If there have been extortionate zamindars, there have also been fraudulent and troublesome tenants. Generally speaking, however, it may be said that subject to the measures necessary for the punctual payment of land revenue due by the Government from themselves, the zamindars have always been considerate to their tenants.

Q. 9. Refer to 3 above. The zamindars have discharged many duties and functions besides the extension of cultivation. The primary duty imposed upon them was the regular and timely payment of land revenue for carrying on the administration. This duty they have never failed to perform. The contribution of the zamindars to the culture of the country, and to good government and maintenance of law and order must also be taken into account. Absenteeism was very exceptional in the 19th century.

Q. 25. To the tenant actually cultivating the land, with adjoined homestead. The creation of other occupancy rights would interfere with the interests of the cultivators.

Q. 26. If the principle is introduced that only the tiller of the soil is to have occupancy right in land, there does not seem to be any justification for affording special protection to raiyats who sublet their land wholly or partly, except in rare instances when the raiyat may be forced, due to such circumstances as illness and other disability to let out his land to others for agricultural purpose alone.

Q. 27. No, such was never the intention of the Permanent Settlement. A distinction should be made between agricultural and non-agricultural lands.

Q. 28. No.

Q. 29. Bargadars have been on the increase of late mainly owing to fall of price of agricultural produces, lack of proper marketing

facilities and want of sufficient initiative on the part of the agriculturists. In the Sunderban area, paddy being the only agricultural produce, the raiyats have been even more hard hit than elsewhere by the abnormally low price of paddy.

Q. 30. (*i*) No. (*ii*) Yes. (*iii*) Yes.

Q. 31. About 15 bighas each on an average.

Yes, in a majority of cases they hold either raiyati or under-raiyati rights.

Q. 32. On no account should the right of occupancy or other extended rights be conferred on bargadars, as they hardly need any protection. They enjoy merely the status of labourers whose services are paid in kind. If protection is at all needed, it should be accorded to the holder of the land concerned as against the unjust claims of the bargadars.

Q. 33. It seems to be economically sound, inasmuch as bargadars have only to pay a certain share of the crop and are not liable like the raiyats to pay rent even when there is a failure of crop.

Q. 34. The effect will be that the bargadars will not get any land to cultivate, as the zamindars and other landholders will arrange to cultivate their lands by means of hired labour, thereby throwing the bargadars entirely out of employment.

Q. 35. One-half to two-thirds according to local custom. No maximum limit need be fixed by law.

Q. 36. The daily wages of agricultural labourers vary from 4 to 6 annas in normal years and two to three annas in times of distress. their economic position is to all appearance worse than that of bargadars.

Q. 37. Yes. It has certainly been prejudicial to the interest of the cultivating raiyats as a whole. Yes, although it might not be easy in all cases to restrict transfer to agriculturists only. Re-introducing the landlord's right of pre-emption will be a valuable safeguard in this respect.

Q. 38. In order to enable a holding to be economic in size, meaning thereby that it would be profitable by cultivating it with one plough and a pair of bullocks, it should be at least fifteen bighas in area.

Q. 39. Yes. Yes.

Q. 40. It is no doubt desirable, but hardly practicable without interfering with the present laws of inheritance and transfer. Rights of unrestricted transfer which threaten the economic soundness of a holding are to be checked. This is done in many European countries.

Spliting up of holdings by increase of population and inheritance cannot be controlled as long as private property is recognised. But it seems the introduction of co-operative farming as in the Punjab will ensure the maintenance of the size of the holding at an economic standard for farming purposes while at the same time leaving proprietary rights untouched. There is no necessary relation between the spliting up of the proprietary interests in a holding and the spliting up of the holding for agricultural purposes.

Q. 41. If possible, special facilities should be afforded in this direction; but in the present state of things the zamindars have no hand in this matter unless the whole structure of the existing land laws be transformed.

Q. 42. Accumulation of large areas in one hand is not advisable in the case of cultivators with small capital at their disposal. A reasonable limit to such accumulation should be fixed.

Q. 43. Cultivation cannot suffer in any way, if coparceners act jointly with one purpose.

Q. 44. Nothing can be done so long as the present law of inheritance and transfer are not substantially altered.

Q. 45. No.

Q. 52. The principle to be followed for determination of fair and equitable rent should be a definite share of the produce and local custom upon which the present system is mainly based.

In the Sunderbans area rent should be assessed at the rate of at least 20 per cent. of the average market value of produce yielded.

Q. 53. Raiyati holdings are usually assessed at a particular rate of rent per bigha according to the quality of the land; and the rate may vary in different parganas, according to local custom. Some lands which were originally settled at a remote period at low rate of rent may now bear a higher rate owing to the gradual improvement subsequently effected at the cost of the landlord and growing demand for land owing to the increase of population and consequent unemployment.

Q. 54. Imposition of higher rent is never dependent upon the poverty or weakness of the tenant concerned. Ticca tenants who hold land for a particular term without paying any premium may have to pay a higher rate of rent which is usually determined by mutual agreement and local custom.

Q. 56. In consideration of the fact that present day conditions have altered immensely this rate may be fixed at a minimum of 20 per cent. of the produce.

Q. 58. No advantage would be gained by the substitution of income-tax in place of rent.

Q. 59. The procedure is defective inasmuch as it is extremely difficult for the landlord to establish his right to enhancement. The procedure followed is also a very cumbrous one, resulting in unnecessary delay and denial of justice to the party concerned.

Q. 60. There should be enhancement of rent on grounds of fluvial action. Landlord should get a share of the extra profit as the proprietor of the soil.

Q. 61. No, if the enhancement is based on a stable rise testified by the prices for a period of at least fifteen years.

Q. 62. No such discrimination should be permitted and the law should be general and uniform in the matter of enhancement of rent.

Q. 63. General reduction of rent on the ground of prevailing rate cannot be permitted. If the price of food crops fall, reduction of rent may only be allowed in proportion to the extent of enhancement with respect to those holdings the rent of which was increased on account of rise in prices. Salami is never accepted to mean as an advance payment of rent as it is only the premium for obtaining settlement from the landlord of the tenure or holding concerned.

Q. 64. Rates of rent which have been fixed by mutual contract by parties to the same after due deliberation, should not in any case be lightly interfered with as the sanctity of contracts should be respected at all costs.

Q. 65. The provisions of Part II of Chapter X should be so amended that it can offer greater security to tenants under Government estates as regards stability of their rents.

Q. 66. No such case has been brought to the notice of this Association.

Q. 67. From the statistics of cases it appears that the primary object of revisional settlements has been and is usually further enhancement of revenue and that is the consensus of opinion held by the entire landed class in the Sunderbans area where the enhancements have simply been incredibly high.

Q. 68. An illustrative list of some recent cases is given below—

Tauzi No.	Name of holder.	Previous revenue.			Revenue after re-settlement.	Revised revenue.	Approx. percentage of increase.
		Rs.	a.	p.	Rs.	Rs.	
3195	T. P. Ghosh ..	95	4	2	1,566	1,112	1150%
1477	Port Canning Co. ..	1,151	6	0	18,177	8,726	800%
1370	Ahidhar Ghosh ..	702	2	6	11,557	5,516	800%
1493	N. N. Mitter ..	1,459	8	0	17,365	9,657	675%
1439	Estate of late Nawab Nazir Ali Khan Bahadur ..	1,337	0	0	17,227	9,019	675%
1359	Bibhuti Bhusan Roy & others	193	13	5	1,906	1,158	645%

Q. 69. It was undoubtedly a mistake on the part of Government to enhance revenue at a time of world-wide economic depression and fall in the price of agricultural produces, in spite of the fact that no such enhancement was made in rent payable by tenants. The tenants have hardly suffered in any manner as the zamindars possessing covenanted rights to increase rent by virtue of the terms of the patta and kabuliyat desisted from doing so although they themselves were burdened with a vastly increased revenue.

Q. 71. The rules are clear enough and do not require much improvement. But the application of the rules to the cases concerned require a good deal of attention and sympathetic consideration on the part of the Government. In the Sunderbans area, with which this Association is mainly concerned, no such concession as is provided for under the said rules was granted to the affected zamindars in spite of repeated requests for the same and the fact that they relinquished of their own accord large portions of arrears of rent and interest due from tenants.

Q. 72. In the Sunderbans area, paddy is the only crop cultivated and the average yield is 18 maunds per acre and the cost of cultivation is about Rs. 13 per acre in money value, as the cultivators do mostly all the labour themselves with the help of the adult members of the family.

Q. 74. These acts have not been taken advantage of by the tenants owing to their poverty and the prohibitive nature of the cost likely to be incurred. In the Sunderbans, the landlords have effected all-round improvement in the lands mostly at their own cost for the benefit of the tenants.

Q. 78. Raiyats can maintain themselves and their *normal* families from their annual income.

Q. 80. All the suggestions made are desirable, but the question of costs has to be taken into account. Improved system of cultivation will be very expensive and add considerably to the cost of production of crops. Improved methods of cultivation can only be introduced exclusively with State aid and without any pressure on the landlords or the tenants concerned. Cattle insurance will not be practicable; but for the purpose of saving cattle a larger number of veterinary surgeons should be employed. Raising of prices of agricultural products seems to be urgently necessary for the purpose of relieving the economic distress of the raiyats. Supplementary occupation during slack season, introduction of cottage industries and co-operative farming and marketing organisation seem to be highly commendable for the purpose of improving the lot of the raiyats.

Q. 81. In the Sunderbans area there is no surplus population. But when a particular holding is taken into consideration, the pressure of population will certainly seem to be on the increase.

Q. 82. The pressure of population elsewhere can be relieved by diverting the efforts of the tenants to other lucrative channels. New fields of occupation must be created, but even they would be unable to cope with the problem if the population increases as a result of wide prevalence of polygamy which, considered from the economic point alone, has become wholly uneconomic in present-day society.

Q. 83. Introduction of co-operative system with liberally modified rules and opening of Land Mortgage Banks for the benefit of people depending upon land. No such efficient organisation does exist at present either Government or private except perhaps in Sir Daniel Hamilton's estate in the Sunderbans.

Q. 84. Agricultural indebtedness is undoubtedly very great in Bengal and the only solution lies in increasing agricultural credit by means of land mortgage and co-operative banks. The operation of the Agricultural Debtors Act has been instrumental in preventing the advance of any further money by mahajans to raiyats and consequently put them in a state of utter helplessness without any chance of succour at the present moment. Probably 20 per cent. of the gross produce of land used to go to mahajans as interest. But under the Bengal Agricultural Debtors Act they have been practically debarred from realising anything either principal or interest.

Q. 85. One of the chief defects of the Co-operative Credit Society is the joint liability to be foisted on the landless raiyats and the raiyats holding land who intend to borrow; and this is why it is not much popular. The few such societies that have been started have not been able to touch the fringe of the problem. The Bengal Agricultural Debtors Act and the Debt Settlement Boards have completely upset the good work initiated by them.

Q. 86. Debt Settlement Boards have been of very little practical help to the cultivators. On the contrary they have served to render rural credit shy and almost unavailable and made the agriculturists' condition worse than before. The opinion of Mr. H. P. V. Townend, C.I.E., I.C.S., Commissioner, Burdwan Division, which is shared by this Association, as expressed in December 1938 at the annual durbar held at the Burua Gopal Town Hall of Burdwan is quite explicit on the matter. He said:—"I need hardly say that the tendency to defraud creditors is bound up with the working of the Agricultural Debtors Act." In his said speech he also said "These tendencies are two in number and they are symptoms of one disease, which at bottom is

nothing more or less than dishonesty—a tendency to defraud landlords by withholding rent and a tendency to defraud creditors by withholding payment of debts......" The whole Act abounds with defects and imperfections; to improve it means to recast it. The Bengal Agricultural Debtors Act should be repealed or purged of the manifold defects and the High Court must be given due jurisdiction to try cases under this Act as the highest tribunal. The definition of the term "debt" under section 2, clause 8 of the Bengal Agricultural Debtors Act offers the debtor ample opportunities for deferring payments of rents and cesses. The Debt Settlement Boards have been one-sided in their operation. The Boards are generally composed of members who have pronounced leanings towards the debtors and, as a matter of practice, Debt Settlement Boards generally delay the proceedings quite unnecessarily. These are some of the chief defects of the Debt Settlement Boards. There are others. Below are given some of the proposals for removing the defects:—

(*i*) The definition of "agricultural debtor" should be definite, so that the *bona fide* poor agriculturists alone may enjoy the benefit of the Act.

(*ii*) So far as rents and cesses are concerned, they should be exempted from the operation of the Bengal Agricultural Debtors Act. If it is not at all possible to protect rent from the operation of the Act, the definition of "debt" should be limited to the present liabilities of the tenant at the time of making an application before the Debt Settlement Boards and must not extend to future rents at the time of making the award.

(*iii*) There should be an express provision in the Act for allowing interest in respect of rent and cess dues in the award.

(*iv*) Where the landlord or his agent is required to attend a Debt Settlement Board situated in a thana (police-station) different from where his lands are situated, he should be allowed reasonable costs for undertaking such journeys or in the alternative the landlord should be given option to file his statement of accounts under section 13 (1) in a Board under jurisdiction of which the lands concerned are situated and a partial award as regards rent dues should be made by the latter Board.

(*v*) Immediately on the submission of accounts under section 13 (1) of the Bengal Agricultural Debtors Act by the landlord, the Board concerned should make an award in respect of rent dues.

(*vi*) There should be an express provision in the Act that kistibundis of rent dues should never be allowed to extend over a period of 4 years from the date of award, in conformity of the spirit of the circular recently issued by the Government in respect of Court of Wards and khas mahal estates.

(*vii*) A maximum time limit of 3 months should be expressly provided in the Act for concluding an award in respect of rent and cess items of the dues of an applicant before a Debt Settlement Board.

(*viii*) A definite period should be stated in section 52 of the Bengal Agricultural Debtors Act specifying the time within which an action in the civil court shall have to be started after dismissal of the application filed before the Debt Settlement Board.

Q. 87. Agricultural banks may be started as suggested, but due precaution should be taken that they do not hamper the collection of rents by the landlords in any manner.

Q. 88. Most of the Land Mortgage Banks are practically on their last legs, as they have all been hard hit by Debt Settlement Boards.

Q. 89. Measures for speedy realisation of rents are cumbrous, expensive and dilatory. They are also expensive to the tenants inasmuch as the cost is foisted upon them in the long run. Special measures should be adopted to dispose of the rent suits within three months from the date of institution and the zamindar should be granted sufficient opportunity for quick realisation of rent by a modified certificate procedure, if possible, without much cost and harassment. The procedure at present in vogue for the realisation of arrears of rent is unduly harassing to the zamindar and not to the tenants.

Q. 90. So long as the "Sunset Law" for the realization of revenue is enforceable against the zamindars, the summary procedure laid down in the Public Demands Recovery Act should not and cannot be interfered with.

Q. 91. It is certainly desirable that complications in the existing revenue laws should be removed by revising and codifying them in a more up-to-date and simple form in the light of judicial decisions.

Q. 92. (*i*) Modification of "Sunset Law" regarding payment of revenue is necessary. Provision should also be made for suspension of revenue of an estate affected by flood, famine, or other natural calamities.

(*ii*) Payment of arrears of revenue should be permitted to be made in small instalments in deserving cases.

(*iii*) The burden of collecting tenants' cesses should be shifted from the shoulders of the zamindars.

(*iv*) The anomaly between the procedure for realizing revenue from the zamindars by the Government, and the rights given to the latter to realize rent from their tenants should be removed. In respect of this question, both the zamindars and the raiyats should be put on the same footing.

Q. 93. The amended Bengal Tenancy Act has affected the interests of the landlords very severely. They have lost the right of pre-emption, and also the right to landlord's fee in case of transfer which means a loss of at least 10 to 15 per cent. in their income. The Act has hardly done any real good to the agriculturists for whose benefit it was ostensibly brought into operation, while it has deprived the landlords of valued rights and privileges which they had been enjoying from time immemorial in accordance with the laws of the land and local custom.

The Act savours of an expropriatory character, and is the source of inexpressible hardships to the landlords as a class owing to the highly inequitable nature of its provisions. It would further mean ruin to the entire middle class population of Bengal within a short time if its operation be allowed to continue unchecked.

Tinkering legislation of this kind for meeting political emergencies serves to benefit no class of people and on the contrary merely embitters relationships between landlords and tenants, and bring chaos and ruin to all.

Oral evidence of the Sundarban Landholders' Association, on 27th March 1939.

PRESENT ON BEHALF OF THE ASSOCIATION.

(1) Mr. B. C. Ghose.

(2) Mr. J. K. Ghose.

(3) Mr. N. N. Dalal.

(4) Mr. A. D. Addy.

(5) Mr. P. N. Brahma.

(6) Mr. M. S. Chakrabarty.

(7) Rai Saheb W. C. Dey.

In reply to the Chairman, Mr. J. K. Ghose said that the reply to question 32 refers both to bargadars who supply seed, cattle and plough and those who do not. The Association would not be in favour of

giving occupancy rights to either class. It often happens that when a holding is sold up and made khas the landlord gives it to a bargadar who is responsible for cultivation and receives half of the crop to cover the cost of cultivation. If the average produce is taken at 6 maunds or 6½ maunds per bigha, the value would be Rs. 12 or Rs. 13 of which the bargadar would receive half. All costs of cultivation would not be more than Rs. 4 per bigha even when he employs hired plough, cattle and labour, so that he would get a net profit of Rs. 2 per bigha. When there is a failure of crop he has to pay nothing. The average rate of rent is Rs. 3 per bigha. He agreed that the cash value of half of the crop would be double the rent. As regards the reply to question 37, he said that the Association wishes to restore the landlords' right of pre-emption on the ground that without this restriction purchasers will come in who have no interest in the land or in the protective embankments which are necessary.

As regards the reply to question 52, he agreed that a rent fixed at 1/5th of the gross produce would be higher than the average rent obtaining in the permanently settled area. The lotdars in the Sundarbans with 99-year leases have proprietary rights, and have invested large sums in their lots. They expect a reasonable profit from their investment. The tenants have made such handsome profits from the Sundarban lands that it is only reasonable for the lotdar to get a rather higher rent than in the permanently settled area. (A copy of his calculation showing the profit on capital invested in the Sundarbans was handed over to the Secretary.)

In reply to the Maharajadhiraja Bahadur of Burdwan, he said that in the Sundarbans, jungles were cleared by the lotdars with the help of woodcutters and labourers from Hazaribagh. None of the local people were willing to work as they are not accustomed to live in jungles. After the jungles had been cleared tenants were brought from outside and supplied with food, cloth, etc., at great cost before settlements were effected. Some of the labourers who reclaimed the jungles also got settlement, but no salami was payable for the original settlements.

As regards the reply to question 40, he said he had no knowledge of co-operative farming and the rules for consolidation of holdings in the Punjab.

As regards the reply to question 42, he explained that one pair of bullocks can cultivate 15 bighas. Tenants who have a larger area tend to sell or sub-let the excess land. The purchasers get occupancy rights but have no interest in the land. For that reason he would restrict the area which one tenant could possess.

Explaining the last sentence in the reply to question 5, Mr. Brahma in reply to Mr. B. K. Roy Chowdhury said, the meaning is that

zamindars have been paying income-tax on fisheries, hats, bazars and the like.

He was in favour of giving occupancy rights to persons who cultivate their lands by bargadars or by hired labour.

Mr. Brahma said the idea that the Sundarban landholders are more oppressive than any other landlords is a popular misconception. The police-stations are very distant and cases are not properly investigated. Mr. Dalal said that the landlords have been very lenient: in his own case tenants are in many years' arrears of rent, but if the crop is very bad he never demands rent, and if it is good he is prepared to give kists over 10 to 15 years for the arrear rent. Formerly the relation of landlords and tenants was satisfactory, but this has been destroyed by the krishak movement. The tenants have taken to sending their rents by money order. In one mahal in Hasnabad police-station they sent rent for 1345B.S. only by money order although rent for 10-12 years was due. He now intends to sue them and they will probably appear and ask for instalments. Even if these are granted they will go to the Debt Settlement Boards. The whole trouble is due to agitators whose only object is to screw money out of the tenants. On the whole the landlords have treated the tenants with great consideration and have been very lenient in the matter of bringing rent suits. During the last 50 years sluice gates and water-channels have been constructed and seeds have been distributed in his estate.

In reply to the Chairman, he agreed that tenants find difficulty in paying their rent if they fall into arrears and that it is neither to their benefit nor to their landlords' that they should have large arrears.

In reply to Khan Bahadur A. Momin, he said that the Sundarban estates fall into two classes—those with 99-year leases and those with 40-year leases. In the former case $\frac{1}{4}$th of the area is deducted when revenue is assessed and the revenue is $\frac{1}{3}$rd of the assets in the remaining $\frac{3}{4}$ths of the area. In the 40-year lease estates he was not sure what is the principle of assessment. Possibly a profit of 35 per cent. plus embankment allowance of 5 to 15 per cent.—normally 50 per cent.—is allowed. The lotdars had to spend a great deal of money on reclamation. Formerly their lots were profitable when revenue was only 2 annas a bigha; now they are not very profitable. The rate of rent in his estate is Rs. 3 per bigha but it is not now realised in full owing to the krishak movement and the fall in prices. He did not agree that landlords invested less to clear jungle at the time of the Permanent Settlement than the lotdars did in order to reclaim the Sundarbans. So far as his knowledge goes there must have been a large area of jungle at the time of the Permanent Settlement. In Midnapore and Burdwan the jungles were also cleared by labourers from Hazaribagh,

and embankments have to be maintained. It is true that there was no obligation on zamindars at the Permanent Settlement to maintain embankmens but they did so because it was to their own advantage.

The cost of maintaining embankments in the Sundarbans is 10 per cent. of the assets or even more: in some places it may be even up to 25 per cent. There is a demand for settlement of raiyati land in the Sundarbans provided that no salami has to be paid. There is also a demand for barga land.

He agreed that the right of pre-emption has hardly ever been exercised by landlords in the Sundarbans but the tenants could not transfer their lands previous to the amended Bengal Tenancy Act without the landlords' permission. After 1928 he agreed that they were given the right of transfer but there must have been very few transfers in the Sundarbans judging from the fact that he himself received practically no landlord's fees.

He did not agree that the inaccessibility of the Sundarban areas and the long distance from the Courts are reasons why tenants are liable to oppression: he thought that these were rather to their benefit.

In reply to Khan Bahadur Muazzamuddin Hosain, he did not agree that the permanently settled area where embankments were required is very small. Embankments were necessary in Jessore as well as in Midnapore, 24-Parganas and Khulna.

As regards the reply to question 72, he said that cultivators who have small holdings are compelled to sell their paddy soon after the harvest. The price at that time is rather low (in the month of Paus) but in Magh it is sometimes higher than in Chaitra or Baisakh. During the last five years the average price may be taken as Rs. 1-12 to Rs. 2 a maund. The straw is kept by the tenants. The estimate of Rs. 13 per acre for the cost of cultivation includes the cost of the cultivator's labour but not his rent. Taking Rs. 1-14 as the average price and 18 maunds as the outturn, the gross produce per acre would be worth Rs. 33-12 and the profit Rs. 20-12. The average rent is Rs. 3 per bigha. He did not agree that the price of paddy was ever below Rs. 1-8 a maund. In 1930-32 it may have gone down to that figure but it was certainly not less.

As regards the reply to question 52, he said his own view is that rents should be ¼th of the gross produce and the Association's view is that it should be 1/5th. He did not agree that Rs. 9 per acre is too high a rent for the Sundarbans. When paddy was selling at Rs. 40 to Rs. 50 per Bis (=18 maunds) there was no difficulty in paying rent. It was true that 1/5th of the gross produce would be less than Rs. 9 nowadays, but prices are rising, and if they continue to rise there is no

reason why rent should not be ⅓rd of the gross produce. The estimate of 18 maunds per acre represents the average of good and bad years.

As regards the reply to question 32, he said that the value of a half-share of the crop would be Rs. 16-14 per acre. Rai Sahib W. C. Dey said he would take the price of paddy at Rs. 1-8 or Rs. 1-10 a maund in which case the value of half-share would be Rs. 4-8 or Rs. 5 per bigha. If there is a failure of crops it is true that the bargadar loses, but so does the landlord.

The lotdars are finding difficulty in paying their revenue and in realising their rent on account of the fall in prices and the no-rent campaign. The tenants work only for three months in the year and sit idle during nine months. The lotdars give them employment during this period on embankments. They can do nothing else, and Government has done nothing to employ them. The rate of Rs. 9 per acre was introduced 20 or 25 years ago. It is true that the revenue was originally 2 annas a bigha, but the lotdars have had to pay heavy cesses, and the district boards have done nothing in return. The District Board of 24-Parganas has spent nothing in the Sundarban area on the roads which are kept up by landlords. The landlords have also had to spend a large amount on embankments. In areas where there are no embankments the landlords have had to spend nothing on that account; but it has to be remembered that they have excavated tanks and have sunk tube-wells. He mentioned that in Boral, one of his permanently settled estates, he has sunk three tube-wells. His total revenue is Rs. 59,000 and odd for both permanently and temporarily settled estates. He could not give the percentage of expenditure on improvements separately for each class of estate.

As regards the reply to question 69, he said that rents of raiyats were not enhanced during re-settlement proceedings. The rents of tenure-holders and the revenue of lotdars were enhanced on the basis of the existing assets. The lotdars have found great difficulty in paying the enhanced revenue except in years when there is a bumper crop. It is true that the tenants have to pay rent in bad years, but the lotdars have refrained from bringing suits against them, and have allowed them so much latitude in this respect that it practically amounts to remission.

Mr. B. C. Ghosh mentioned that in one estate in Sandeshkhali police-station he had granted remission of rent, after making careful personal enquiries and that he charges no interest.

As regards the reply to question 71, Mr. Dalal said that he had applied to the Collector (Mr. Graham) for remission of revenue in 1342 B.S. when there was a failure of crops but he did not get any remission and his letter was not even answered.

The size of an average holding in the Sundarbans would be between 10 to 15 bighas. The barga system is common all over the Sundarbans. On a rough estimate, the area held under this system might be 25 per cent.

Mr. J. K. Ghosh mentioned that there are many *baisnab* tenants who would lose caste if they touch the plough. There are also some tenants who own 50 to 60 bighas of land and have to let out the excess area in barga. Then there are lazy tenants who give their land in barga. When their holdings are sold, the land continues to be cultivated by the same bargadars. The system is tending to increase.

In reply to Khan Bahadur Hashem Ali Khan, Mr. Dalal said that practically all lands have been let out to tenants. When the Sundarbans consisted of jungle, tenants were brought in from other districts and provinces. After the land was cleared, the trees were sold at a very low price for fuel. The landlords got the price of the trees. When reclamation was made, land was not settled all at once because tenants could not be found. Some land was retained khas by the lotdars but the major portion was settled over a period of 30 to 40 years.

As regards the reply to question 68, Mr. J. K. Ghosh said that Tauzi No. 3195 was assessed in 1830 and the assessment was revised in 1929 when the revenue was raised to Rs. 2,400; but it was reduced to Rs. 1,112 on appeal, by the Board of Revenue.

Rai Sahib W. C. Dey said in reply to the Chairman that Tauzi No. 1477 was assessed to revenue at Rs. 18,177. This assessment was upheld on appeal by the Board of Revenue and when the Port Canning Company filed a civil suit against Government, the revenue was amicably settled at Rs. 8,726.

All the estates mentioned in the reply to question 68 are estates with 99-year leases, which were revised under the Rules of 1853. Mr. Dalal said that the rate of rent was raised to Rs. 3 per bigha in about 1318-20 B.S. Before that it was Rs. 2 to Rs. 2-8.

Mr. A. D. Addy said that rate of rent in his estate has always been Rs. 2 per bigha. Although there has been a fall in prices, the rate of rent has not been decreased because the revenue was assessed on the basis of the existing rents.

In reply to Sir F. A. Sachse, Mr. Dalal did not agree that the revenue in 99-year estates would be 28 per cent. and the profit 72 per cent. One-fourth of the area was deducted on the ground that no rent could be realised from it and the revenue was assessed on the remaining three-fourths at one-third of the assets. It would be difficult for the tenants to pay their rent if prices continue at a low level, but there is a tendency for prices to go up.

Continuing to Khan Bahadur Hashem Ali Khan, he said that if bargadars are honest and hardworking, they have no difficulty in getting lands, but if not they are changed. A bargadar can cultivate 15 bighas himself. If he had 10 bighas, he would normally get 30 maunds in his share, the value of which might be Rs. 60. In the case of khas lands, the lotdar who had given 10 bighas to a bargadar would have to pay from his share the revenue amounting to Rs. 10; would have to maintain embankments, pay for the seed and maintain a durwan for collection. His profit could not be more than Rs. 30, i.e., Rs. 3 a bigha. Lotdars would not agree to give occupancy rights because they get the produce regularly from their bargadars, whereas if occupancy rights were given, they would not get their rent regularly. They have to keep a certain amount of barga land in order to pay revenue punctually, and to retain some labourers in hand for protective works. He did not agree that the barga system tends to bad cultivation.

As regards the reply to question 82, he said that polygamy does not exist among Hindus but it does among Muhammadans. In reply to Khan Bahadur M. A. Momin, he said that Muhammadan women do not go to fields and it is not correct that Muhammadans marry again and take women to char areas because labourers are not available.

In reply to Dr. Mukherji, he said that at the time of the Permanent Settlement, the Sundarbans consisted entirely of jungle. The rest of Bengal contained a certain amount of jungle but not to the same extent. It is correct that more efforts were needed to reclaim the Sundarban jungle than in the permanently settled area.

Rai Sahib W. C. Dey said that formerly four years' rent had been allowed to accrue, but under the amended Act, the Port Canning Company intends to sue its tenants after every year or two years. The collection is now between 60 and 70 per cent. owing to the development of the Krishak movement.

Mr. Dalal said that revenue was formerly 2 annas per bigha—now it is one-third of the assets calculated on three-fourths of the area. The rent was Rs. 1-8 or Rs. 2 and was raised to Rs. 3 from 1318 B.S. It is true that the revenue was originally very low, but it has to be remembered that the cost of reclamation was very heavy. Formerly not a single lot used to be sold in Revenue Sales: now sales taken place at every kist. He considered that the incidence of revenue, after revision, is extremely high. The fall in prices has affected the tenants' ability to pay and Malaria and Kala-azar have become common throughout the Sundarbans. The price of paddy can only be raised if the import of Burmese rice is stopped. He thought that outturn of paddy of Bengal is even now sufficient for maintaining the people (Khan Bahadur M. Hosain did not agree). Population is increasing, particularly among Muhammadans, and this is the principal reason for fragmentation of holdings.

He would agree to reduction of rents if Government reduces the revenue. He did not think that the lotdars and other landlords would be able to bear any further taxation. If agricultural income-tax were imposed, the landlords as a class would disappear.

In reply to Sir F. A. Sachse, Mr. Dalal said that he owns khas lands which bring in about 10,000 maunds of paddy, if there is a good crop. The area let out in barga varies from year to year. He undertook however to give figures for the last 10 years showing the area of barga land and the amount of paddy received in his share.

Rai Sahib W. C. Dey said that the estimated outturn of 18 maunds per acre had been taken by the Association from the share obtained by the Port Canning Company for their barga lands.

Mr. Dalal said that tenants who work on embankments are paid by the lotdars. The cultivators would never work without payment. Labour is not always available on the spot. If a breach occurs in an embankment, the repair has to be made immediately, because the estate may be inundated with the first rise of the tide. He mentioned that in one of his estates, a breach occurred which could not be immediately repaired and as a result he had to spend Rs. 25,000 in rebuilding the embankment.

He agreed that a number of bargadars are persons who formerly had raiyati lands and have been sold up, but there are others who were formerly bargadars holding under tenants who have been sold up. After the sale the landlords have retained the same bargadars. As a rule bargadars are always supplied by their landlords with seed. They do not therefore require agricultural credit—but they may need in case of purchase of cattle or plough.

As regards the reply to question 64, he agreed that the thika system is illegal under the provisions of the Bengal Tenancy Act. The thikadars are however regarded as labourers and not as tenants, because the landlords who make thika settlements do not grant them any rent receipts.

In reply to the Secretary, he agreed that landlords, in order to avoid the Tenancy Act, make thika settlements with persons who are not settled raiyats. Continuing to Sir F. Sachse, he said that the labourers who reclaimed the Sundarban jungles got settlement in many cases. Then tenants came from Midnapore and other places and became domiciles.

He agreed that on the average the lotdars collect at least half the assets. He estimated that the collection would be between 50 to 75 per cent. of the assets.

Sir Frederic Sachse pointed out that if the revenue after re-settlement is Rs. 2 to Rs. 2-8 per acre and out of the rent of Rs. 9 per acre as little as Rs. 5 is collected, there still remains a profit equal to the revenue. Mr. Dalal did not agree that there was any such profit. He said that lotdars make profit in good years and no profit in bad years.

Sir F. A. Sachse enquired whether, if the State were to purchase the Sundarban Lots, the lotdars would agree to 40 per cent. deduction from their profits on account of management and maintenance of embankments. Mr. Dalal said he could not reply off-hand.

In reply to the Chairman, Rai Sahib W. C. Dey said that the Port Canning Company is a limited Company. The highest dividend it has paid is 5 per cent. Last year the dividend was 3 per cent. with 1 per cent. bonus on every share. In early days, there was no profit. A dividend of 4 per cent. has been paid since 1906 when the price of paddy rose. The cost of management, including embankments, is 32 per cent.

In reply to the Secretary, Mr. Dalal said that the "no-rent campaign" is far from being a bogie as Mr. Bankim Mukherji had described, but a reality. It has seriously affected the collection in areas where the agitation has been in force. (Some figures were supplied, and the Association undertook to supply others.)

As regards the reply to question 65, he explained that by "greater security to tenants under Government estates" he meant that the procedure for re-settlement under the Tenancy Act is inequitable, and that all disputes should be decided by the Civil Courts. The whole procedure should be removed from the control of the Board of Revenue.

The Secretary pointed out that in the past, high contractual rents had been retained by the Settlement Department on the assumption that they could not be reduced under section 38 of Bengal Tenancy Act and enquired whether the Association thought that such rents could, and should be reduced, provided that a proportionate decrease is made in the revenue. Mr. B. C. Ghosh replied that high contractual rents exist under chakdars and not under lotdars. Mr. Dalal mentioned that in his own estate, rents have recently been reduced to Rs. 6 an acre by the Settlement Department and he proposes to appeal against this to the Director of Land Records and if necessary to the Board of Revenue. In his view, high contractual rents should not be reduced.

Reply by the Manager, Paikpara Raj (Kumar Bimal Chandra Sinha).

Q. 1. It is perhaps necessary to emphasise at the very beginning that it may not always be safe to rely only on the text of Regulation I of 1793 and to ignore all relevant official declarations and records. For what is necessary at the present moment is not as much a strict legal interpretation of the Regulation I of 1793 as a real understanding of the objects of the framers of the Permanent Settlement. The issue should obviously be an economic one; and the present policy should be determined not merely by reference to the latter or of the Regulation, but by taking into account the intention of the then officials as revealed through Regulation I of 1793 and other Regulations passed on the same date or later on and other official documents, as also in conformity with the present economic needs of the country.

I generally agree with the objects stated in question 1 inasmuch as Regulation I of 1793 states in Article VI that—

> "from the earliest times until the present period (i.e., 1793) the public assessment upon the land has never been fixed, but that according to established usage and customs, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm or to appoint officers on the part of Government to collect the assessment immediately from the raiyats. And the Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country have, with a view to promote the future ease and happiness of the people, authorized the foregoing declaration; and the zamindars, independent talukdars and other proprietors of the land, with or on behalf of whom a settlement has been concluded, are to consider these orders fixing the amount of assessment as irrevocable."

But I do not consider the description to be sufficiently exhaustive. It should be noted that the object of the Permanent Settlement, as stated in the passage quoted above, is not only to get rid of frequent investigations for ascertaining the actual produce of the soil, but also to put

a stop to the current practice of depriving the zamindars of the management of their lands and so on. In fact this conclusion is supported by Regulation I itself for in Article IV we find this clear declaration—

> "The lands of zamindars, independent talukdars, having been held khas or let in farm in consequence of their refusing to pay the assessment required of them, the Governor-General in Council now notifies to the zamindars, whose lands are held khas, that they shall be restored to the management of their lands."

In fact if getting rid of frequent investigations was an object of the Permanent Settlement, restoration of old rights then destroyed, was another object of no less or perhaps of greater importance. In fact, this can be traced even in Pitt's India Act of 1781. Pitt in moving the Bill said (*vide* Parliamentary Debates, 6th July 1784) that another object of investigation was the titles of the landholders to land, and Sir Philip Francis speaking on the same date declared that he highly approved of the clause enacting that the Government should not alter the rents, while Mr. C. J. Fox stated that "in regard to the second part of the Bill, consisting of the Regulations, I think and always did, that the zamindars and polygars ought to be restored to their possessions and that the rents should be fixed and settled by a rule of past periods and not of future enquiry ." The Act of 1784, next, laid down that:

> "Whereas complaints have prevailed that diverse Rajas, zamindars have been unjustly deprived of, or compelled to abandon and relinquish their respective lands, jurisdictions, rights and privileges and, whereas principles of justice and honour of this country require that such complaints should be forthwith enquired into, and fully investigated and, if founded on truth, effectually redressed; Be it therefore enacted that the Court of Directors shall take the said matters into their serious consideration—and according to the respective cases of the said Rajas, zamindars give orders to the several Governments and presidencies in India for effectually redressing all injuries and wrongs which the said Rajas may have sustained unjustly and for settling the permanent rules by which their respective tributes shall be in future paid to the Company."

And this was followed by a despatch of the Court of Directors on 12th April 1786 (*vide* Second Report from Select Committee, 11th May 1810) which clearly confessed that "the condition of the various descriptions of the landholders throughout our provinces has been brought under the consideration of Parliament in a manner that has produced much reproach against the British Government in India." It is useless to quote more authorities on this topic; it is perhaps now

clear that along with the abandoning of frequent investigations restoration of the rights of the then landlords was also an important object of the Permanent Settlement—"to place the revenue paying agency on a definite footing" as Mr. F. D. Ascoli describes it in his Early Revenue History of Bengal.

In the next place, it is a fact, which it is difficult to deny that one other object of the Permanent Settlement was to secure a minimum revenue for the Government. And this is quite evident not only from the text of Regulation I of 1793 but also from other official declarations and correspondence. I would like to draw attention in this connection to paragraph 6, Article 6 of the said Regulation which runs thus:—

"He (Governor-General) further expects that without deviating from this line of conduct, they will regularly discharge the revenue in all seasons," failure to do which would lead to a sale of their lands. In fact that this was one of the main objects from the Government point of view is evident from the following facts as narrated by the Taxation Enquiry Committee in their Report:—

"The East India Company, at first, attempted to administer the revenue through supervisors. The attempt however failed and the Company decided to undertake a more direct measure of control. The revenues were farmed out for five years, and Collectors, with whom were associated Indian Diwans were appointed to receive them. The older zamindars were not however replaced by other farmers where they refuse to contract for the sums demanded. Owing to a variety of circumstances this system also was unsuccessful, meanwhile in 1786 Lord Cornwallis had arrived in India, and caused elaborate enquiries to be made and rules were issued between 1788 and 1790 for a Decennial Settlement. He recommended however that instead of this a Permanent Settlement should be introduced, and in 1793 his suggestion was acted upon and steps were taken for a Permanent Settlement under a Regulation which was issued in the same year."

And I refer to the following authorities in support of my view:—

(1) Shore in his great Minute of 18th June, 1789, remarks in paragraph 98 that "it has been the object of this Government to raise as large a revenue as it could without distress to its subjects." He further remarks in paragraph 197 of the same Minute that "that in making a settlement for a term of years with the zamindars, we rely on the strongest of all principles, by uniting the interests of our subjects with that of Government; that this mode affords Government the only substantial security for the revenues, by making the property of the

lands responsible for it." He further remarks in paragraph 283 of his Minute that "if the object of our present deliberations were only to obtain the highest possible jama, without regard to the *permanency of our arrangements* (italics mine) we should then relinquish the principle of concluding engagements with the zamindars altogether and attempt to secure it by other modes."

(2) Sir William Hunter in his Introduction to Bengal Records, Vol. I, p. 15, mentions that before 1793 "the collection of the land revenue led to yearly struggles between the local authorities and the territorial native magnets: struggles, not always confined to chicanery, falsehood, and flight on the one side, not to the utmost exercise of civil rigours on the other. Before the end of the period (i.e., 1807), the Permanent Settlement with all its defects had rendered the collection of the revenue a matter of routine. The Permanent Settlement of 1793 is justly regarded as a revenue measure."

It is to be mentioned in conclusion that besides these two objects, there was yet another object, which though not definitely mentioned in Regulation I of 1793, was nevertheless in the minds of its authors; and that object was the stability of the Government. We find a detailed discussion on this point in Shore's Minute of 18th June 1789[1], where he explicitly remarks that "in making a settlement for a term of years with the zamindars, we reply on the strongest of all principles by uniting the interests of our subjects with that of Government" and he further remarks in paragraph 257 of the same Minute that "the surest way to retain our dominion in Bengal is by establishing a system of government calculated to promote the happiness of our subjects, by affording them security in their property, relief from oppression, and a reasonable indulgence to their prejudices."

I now pass on to the "quid pro quos" mentioned in question 1. While I agree with the three items mentioned in this paragraph I do not think that the word "quid pro quo" gives a happy description of the situation at that time. For the term implies something like a contract which presupposes the existence of two willing parties, it also further implies that if any party fails to observe any of the pledges laid down the rein, the contract would be null and void. This, I believe, would not be a true interpretation of Regulation I of 1793. For it was repeatedly argued by the officials at that time that nothing save a sense of complete security would encourage the extension of cultivation and the improvement of land. For example, Lord Cornwallis in his Minute of 18th September 1789, in criticising Shore's Minute remarks that "if the value of permanency is to be withdrawn from the settlement now in agitation, of what avail will the power of his arguments be?" For according to Lord Cornwallis "Permanent Settlement alone can make

[1]Fifth Report (Firminger's edition), Vol. II, pp. 47-52, para. 197-214.

the country flourish." Thus what is important is the fact that the framers of the Permanent Settlement realised it quite well that what was necessary was to create an atmosphere of security and as Sir William Hunter remarks in his Bengal Records, Vol. I, "after long deliberation, they decided that it was good policy to surrender their claims to any future increase of revenue." Now the assumption that the settlement was in the nature of a contract cuts at the very root of the sense of security which the framers of the Settlement tried to develop. For this reason, Lord Cornwallis declared the settlement permanent without any "quid pro quo" whatsoever, though he declared that he *trusted* (italics mine) that the zamindars would perform such and such duties. It was a wish no doubt but not a condition precedent or a "quid pro quo" in any legal sense of the term.

The last paragraph of question 1, viz., whether the Permanent Settlement took away any existing rights from the tenants, I take up with question 4 and question 24.

Q. 2. There are two distinct parts of this question, viz., did the Permanent Settlement convey any power to the zamindars (*a*) to choose his tenants, and (*b*) or to regulate the uses of the land to the economic interest of the province? I shall take up the latter portion first.

It has been already pointed out that Bengal at that time was covered largely with jungle and it was necessary to develop her latent resources. And the Permanent Settlement in this sense was definitely an economic measure. The suggestion will not be wide of the mark that the landholders were declared proprietors of the soil in the belief that without this absolute right the landholders would not be able to regulate the use of land in the economic interest of the province. Lord Cornwallis, for example, categorically wrote as follows:—

"A permanent settlement, alone, in my judgment, can make the country flourish, and secure happiness to the body of the inhabitants.

Where the landlord has a permanent property in the soil, it will be worth his while to encourage his tenants, who hold his farm in lease to improve that property; at any rate he will make such an arrangement with them as will prevent their destroying it." (Minute, Sept. 18, 1789.)

Shore, similarly, condemned the ijara or the farming method and advocated settlement with the zamindars only on the ground that a temporary farmer would never look to the future improvement of the estate. (*Vide* his Minute, June 18, 1789, para. 164.)

But this power of regulation it must be made clear, was not without certain limitations. These limitations arose mainly out of the existing

customary rights of the tenants, especially the khudkasht raiyats. The question is discussed later in my reply to questions 4 and 24.

The first part of the question is much more complicated. The right to choose one's own tenant is the logical consequence of absolute ownership of land. And though this is not definitely mentioned in Regulation I of 1793, still it is not difficult to find traces of this in the Regulation itself and in subsequent enactments. For example, Article VII of the Permanent Settlement Regulation in general and specially the words that "those who from their situation are most helpless" can have no meaning if it does not presuppose absolute power of the landlords. Later on, the right of pre-emption was given to the landlords because it was thought that they as actual proprietors of the soil should have the power to choose their own tenants. It may be mentioned here that the extreme form of this right was proposed in the Draft Bill passed by the Rent Law Commission which reported in 1883, when it was contemplated that the landlord must be informed before—(and not after) any transaction or transfer taken place. Thus it was a real pre-emption and not a 'post-emption' as was subsequently adopted. Anyway, all these measures go to show that the landlord had the right to choose his own tenant.

Q. 4, Q. 24 and the last part of Q. 1. For the sake of convenience I take up these allied questions together. We have first to discuss whether the landlords were only collectors of revenue before the Settlement or actual proprietors or whether the cultivators were actual proprietors and we have also to find out whether Regulation I of 1793 took away any existing right of the tenants.

Any discussion of the respective rights of the landlords and the tenants in the pre-Permanent Settlement days should cover not only the few years just preceding it but a longer period, for the years just preceding the Permanent Settlement constituted an era of chaos and confusion characterised by ruthless sacking by the revenue authority and rack-renting by the landlords. But the trend of Hindu jurisprudence seems to confirm the belief that in ancient times the State was not the proprietor of the soil inasmuch as the Government was content with a certain portion of the grain (ধান্যানামষ্টমো ভাগো ষষ্ঠ দ্বাদশ এব বা—মনু ৭). Land then seemed to belong to those "who cut away the wood or who cleared or tilled it" (Manu, IX. 44). Revenue, we find, was then collected by a hierarchy of local headmen, almost similar to the present hierarchy, who received a certain portion of land free for the service they rendered (Manu, VII). During the Moghul period also, the State never claimed to be the proprietor of the soil and it was the zamindar, or the landlord who was allowed to have a free hand in internal management as long as they paid a tribute to the Imperial Government. It is needless to repeat here how the landlords had their own police and jails and disposed of cases themselves and so on. As Ascoli remarks, during the Moghul

period all offices had tended to become hereditary, and accordingly permanent, and the history of zamindari development in Bengal clearly shows that the zamindar was removable only by force or fraud. All this goes to show that the landlords were not mere collectors of revenue. They were almost like feudal chiefs, with absolute right in land, and the Government was content with some tribute only.

That this was the existing state of affairs will also be evident from the principles of revenue settlement followed during the Moghul reign. Todar Mal, it may be pointed out here, devised his settlement of Bengal called the tumar jama which fixed a standard rate of assessment, the rate being a certain share of the produce. And it must be very carefully noted that this asul tumar jama or the standard assessment proper was never set at nought by subsequent revenue officers. The rate being unaltered, revenue could only increase with any increase in the area of cultivation or from increased population. As Shore remarks in his Minute of 18th June 1789, "the principle of Moghul taxation as far as we can collect the institutes of Timur and Akbar, from the ordinations of the Emperors, and the conduct of their delegates however limited in practice, were calculated to give the Sovereign a proportion of the advantages arising from extended cultivation and increased population. As these were discovered, tumar or standard assessment was augmented; and whatever the justice or the policy of the principle might be, the practice in detail has this merit, that it was founded upon a knowledge of real and existing resources" (paragraph 30). It was for this reason that "from the era Todar Mal in 1582 to that of Jaffar Khan, an interval of 140 years, the increase added to the assessment of Bengal, amounted to Rs. 24,18,298 only" (*ibid*, paragraph 13). And when subsequently the Governent was in need of money it did not alter the tumar jama or the standard assessment, but added abwabs to it. The system was in fact an exact parallel of conditions existing now in Bengal—a permanently fixed revenue with cesses imposed on it for additional requirements. For as Shore remarks "they (the abwabs or viceroyal imposts) were in general levied upon the standard assessment in certain proportions to its amount and the zamindars who paid them were authorised to collect them from their raiyats, in the same proportion to their respective quotas of rent."

Now it is not our point here to discuss the merits or otherwise of the system. What I want to emphasise is this: Of all these revenue arrangements, one fact stands out clearly and that fact is that the zamindars were not merely collectors of revenue but something more than that—they were, for all practical purposes, the actual proprietors of the soil. For had it not been so, the abwabs or cesses would not have been levied on them but on the raiyats direct and collected by the zamindars, these latter receiving at best a certain commission only. The very fact that the standard assessment or the asul tumar jama

was nearly fixed during all the financial operations from 1722 to 1755 (*vide* Shore's Minute of June 18, 1789, paragraph 46) and that zamindars were held responsible to the Government for the payment of abwabs and other subsequent imposts, and not the raiyats, clearly proves that the zamindars were not mere collectors of revenue.

Subsequent developments however seem to disprove this contention. It is often pointed out that arrest of and oppression on the zamindars at the time of Jaffar Khan and their dismissal subsequently, specially during Cossim Ali Khan's administration and the early days of the Company point to a contrary tendency. Thus writes Shore in his Minute referred to above:—

"The severities inflicted upon renters in arrears, and upon the zamindars to compel them to a discovery of their resources, were disgraceful to humanity; and as if personal indignities and tortures were not sufficient, the grossest insults were offered to the religion of the people." (Paragraph 15.)

But whatever may be the oppression arising out of the mercenary motive of the then Government, the Muhammadan Government had at least some respect for these ancient rights. For it is remarked in the Fifth Report:—

"Under whatever degree of adversity the zamindars might fall, or whatever might be the extremity, or injustice, or cruelty practised on them, they had still the consolation of preserving their rank and of being considered as zamindars. They themselves might come under the displeasure of the Government, and experience its severities, but their families would still maintain the consideration due to their station in society, with the chance of recovering, in more favourable times, possession of their zamindaris. Hence it appears, that even in cases where the zamindar, from rebellion or other misconduct was deemed deserving of death, the succession of a near relation or of an infant son, or of a widow placed under tutelage, was generally deemed preferable to the introduction of a stranger to the possession of the zamindari."

It may be pointed out in conclusion that the Company actuated by purely mercenary motives could not have any regard for this custom and initiated the policy of letting out zamindaris in farm for one year, two years, and five years and so on; of dismassing the zamindars and excluding incompetent ones; of disqualifying the zamindar to transfer or sell the zamindari without the sanction of Government and so on—a policy which was characterised in the Preamble to Pitt's Regulating Act of 1784 as "derogatory to the justice and the honour of this country" (England)—a policy which ultimately resulted in the restoration of these rights by Regulation I of 1793.

Thus the conclusion arrived at from the foregoing discussion is this: The landlords had certain definite rights before the Permanent Settlement; during the Moghul rule, the practice of free internal management, of maintaining police and holding Courts of justice, and finally the principle followed in revenue assessment—all lead to the conclusion that the landlords were for all practical purposes proprietors of the soil, whereas the State was content with a certain share only. But subsequently—and specially during the period just preceding the Permanent Settlement—the dual Government resulted in irresponsible exactions with a consequential disregard for these rights coupled with a total lack of consideration for national welfare—an evil which was sought to be remedied by Regulation I of 1793.

But though it was one of the objects of the Permanent Settlement to restore some of the rights the landlords possessed before, still it is an undeniable fact that in doing so it did take away some of the rights of the tenants. It has been mentioned in various official documents, including the Minute of Sir John Shore and Despatches by Lord Cornwallis to the Court of Directors that there existed at that time two definite classes of tenants:—(1) khudkasht, i.e., resident tenants, (2) paikasht, i.e., non-resident tenants. While paikasht tenants (i.e., tenants cultivating lands belonging to a village where they do not reside) were regarded as mere temporary sojourners and therefore tenants-at-will, khudkasht or resident tenants had much greater rights. Thus writes Shore in his Minute of June, 1789—"It is, however, generally understood that the raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed; but this right does not authorise them to sell or mortgage it and it is so far distinct from a right of property. In every district throughout Bengal, where the license of exaction has not superseded all rule, the rents of the land are regulated by known rates called nirik, and in some districts, each village has its own, these rates are formed with respect to the produce of the land, at so much per bigha" (paras. 388-391)—(Firminger's edition of the Fifth Report, Vol. II, page 84). And he further writes in para. 406 of his Minute, "pattas to the khudkasht raiyats, or those who cultivate the land of the village where they reside, are generally given without any limitation of period, and express that they are to hold lands paying the rents from year to year. Hence the right of occupancy orginates; and it is equally understood as a prescriptive law that the raiyats who hold by this tenure cannot relinquish any part of the lands in their possession or change the species of cultivation without a forfeiture of the right of occupancy which is rarely insisted upon. I understand also that this right of occupancy is admitted to extend even to the heirs of those who enjoy it. But though the title is hereditary the raiyat cannot sell or mortgage his land. Paikasht raiyats hold their lands upon a more indefinite tenure—the pattas to

them are generally granted with a limitation in point of time and where they deem the terms unfavourable, they repair to some other spot."

Now it is clear from the quotation that khudkasht tenants had certain very well-defined rights agreed to by the landlords in their pattas. And it is my strong conviction that though the framers of the Permanent Settlement never meant to destroy these rights and tried to provide for some safeguards, yet their arrangement proved a total failure and in effect Regulation I of 1793 did take away the existing rights until an attempt was made to revive them in 1859. And this contention is supported not only by official documents but also by the fact that such an apprehension arose also in the mind of the framers of the Settlement. For example, this is explicitly mentioned in Shore's Minute containing provisional rules and a permanent plan for the security of the raiyats and in Lord Cornwallis Minute of 3rd February, 1790, and also in despatch to the Court of Directors, dated 6th March 1793[1]. And not only was this a mere pious wish. That Lord Cornwallis actually had proposed some safeguards is clear from the fact that Regulation VIII of 1793 contains certain provisions (*vide* sections 54-55) for the khudkasht tenants defining under exactions and also making it obligatory on the landlords to issue pattas to the tenants defining their rights (vide sections 56-60). But as it is needless to point out now, these proved a total failure, and ultimately the Rent Act of 1859 had to be passed for remedying the evil.

We are not here concerned with tenure or tenancy. The sole point that emerges from this discussion is this:—that the khudkasht tenants had certain well-defined rights before the Permanent Settlement, and Regulation I of 1793, in making the settlement with the landlords did not lay down any rule for safeguarding them; and though an attempt was made at that time to safeguard these in an indirect way, these safeguards proved to be utter failures and the apprehensions of Lord Cornwallis about "all classes of people and more particularly those who from *their situation are most helpless*" (italics mine), as revealed in Article VII of Regulation I of 1793 came true. And the result was the long series of legislative measures beginning with the Rent Act of 1859 and culminating in the Bengal Tenancy Act of 1885.

Q. 5. It is not difficult to find a good number of declarations and assurances by competent authorities that Permanent Settlement is not

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[1] "From the proceedings which we shall forward to you by the next despatch, you will find that we have anticipated your wishes respecting pattas to be granted by the landlords to the raiyats. It is with pleasure we acquaint you that throughout the greater part of the country specific agreements have been exchanged between the landholders, have bound themselves to prepare and deliver them by fixed periods. We shall here only observe that under the new arrangement, to which we shall presently advert the raiyats will have always the power to compel an adherence to these agreements by an appeal to the Courts of Justice whenever the landholders may attempt to nfringe them" (Paragraph 20).

to be set aside at any time. In fact in my opinion it was a solemn pledge on the part of the Company. This is evident not only from the minutes, letters and speeches both in India and in England, but also from the fact that the framers of the Settlement seriously believed that it was not possible for them to have a stable Government or to develop the country without fostering an atmosphere of security which a Permanent Settlement was expected to create. Nor is there any reason to believe that the Company contemplated of any financial sacrifice. It was a revenue measure which benefited them immensely. For instead of the uncertain revenue of previous years† the Company now ensured a minimum revenue for themselves. The Company's share constituted 90 per cent. of the capacity of the raiyats to pay—a percentage which would possibly be deemed as inordinately high even by modern standards. Thus there is no reason to suppose that the Company did not give a solemn pledge, specially when the measure taken not only did not entail any sacrifice on their part—but positively benefited them.

But though it was a solemn pledge, it is also my conviction that the tenants were no party to the Settlement. It may not be a wild conjecture to say that it was not possible for the Company with the insufficient data and a hardly stable government to bring in tenants into the picture, and a settlement with zamindars alone presented a number of difficulties which it was difficult to resolve. But difficult or not difficult, it cannot be denied that the tenants and their status were left undefined and rights not safeguarded by any statutory provision.

As regards the last part of the question, i.e., whether this was a measure which permanently crippled the financial resources of the country, I would submit that I do not find any particular relevancy of discussing that question here and I propose to discuss it under question 11. I do not, further, find any sound reason for laying undue emphasis on this question of a pledge—or in fact on the planning of future policy on the interpretation of the Regulation both historically and legally. I do realise that it is a dangerous game to trifle with Government pledges for that may not only involve the country into chaos and confusion but may lead to a disruption of stability and order

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†I give here only one example and this will show how the revenue fluctuated between wide margins:—

Rungpoor.

Bengali Year.	A.D.	Rs.
1169	1762-63	11,29,324
1171	1764-65	5,09,182
1175	1768-69	9,11,789
1178	1771-72	11,01,743
1181	1774-75	7,95,298
1188	1781-82	9,47,188
1193	1786-87	7,39,244

Vide Shore's Minute of 18th June 1789, Para. 99, page 25, Vol II of the Fifth Report, Firminger's edition.

of society and consequently of the very basis of Government itself. And I also do not suggest a complete break from the past for that is likely to give a rude shock which is not likely to be advantageous to anybody. But that is no reason why any Government should not be in a position to introduce gradual changes conducive to the welfare of all and be strictly bound by the letters of a declaration made in a period when the economic situation was altogether different from that at present. Such a static policy would be directly opposed to the dynamism of a living society. Supposing that the tenants were made parties in 1793, there is no reason why the Government should not make any change for remedying present defects; or even if the Government had given no pledge, it is no sound logic to argue that the Government must change its policy now and then, when a particular policy, followed over a number of years is expected to serve the needs of the country best. The Settlement, in my opinion, was the only arrangement possible at that time, and it answered well the needs of the Company and to some extent the needs of the country also. The pledge was given for fostering an air of security; it has been maintained for a peroid long enough for that purpose. And if the possibilities of the pledge have not been fully realised in a century and a half, it would, I think, be very difficult to realise them within any length of time. What I do emphasise is that we should look at the question not with a lawyer's eye, but with a wider vision; and future policy relating to land tenure and tenancy should be determined not by a strictly legal interpretation of Regulation I of 1793, but according to the principles of equity and social justice, not inconsistent with the policy followed by the State in other spheres, in accordance with the present economic conditions and the resources of the Government to tackle them.

Q. 6. The extension of cultivation has been mainly due to the increase of population. It may be mentioned that in 1872 the total population of Bengal was 34·5 millions and has now risen to 51·1 millions of whom above 70 per cent. even now depend on agricultural occupations. This large increase in population and specially of agricultural people is no doubt responsible for a large increase in the area of cultivation. And it is being argued by some writers on agricultural economy of our country that a decline in the density of population in some of our older tracts and an increase of it in the active delta of East Bengal is a positive sign of the last stage of agricultural economy and the first sign of the approaching moribund condition of the other tracts. Whatever may be the truth in this contention we can safely say from a commonsense point of view that there has been very great increase in population and that this increase is mainly responsible for the increase in the area of cultivation.

Regarding the second and third points, it may be remarked that no broad generalisation is possible, for it is not very difficult to find

instances of increases in the cultivated area due to the enterprise of the tenants or to the initiative and assistance of the zamindar. For example, it is not altogether impossible to catalogue a long list of sums spent by zamindars for agricultural development or of embankments constructed by them in different districts of Bengal—and it must be admitted that in this sense they have helped in the growth of agriculture. But it is perhaps also necessary to confess at the same time that such attempts were more or less perfunctory and un-co-ordinated in their character. There has not taken place in Bengal any systematic and well-planned programme of agricultural expansion undertaken either by the zamindar or by the tenant. And though there might have been large sums occasionally spent, there can be no doubt about the fact that a lack of systematic development characterised the growth of agriculture in this province. Future policy in this case should naturally be directed towards remedying this evil and linking all such attempts together into a systematised and well-co-ordinated plan.

Q. 10. Regarding the first part of the question, I think that the Settlement was in the interest of the country economically and for the greatest good of the greatest number. We generally look at the Settlement with a suspicious eye and doubt the sincerity of its purpose inasmuch as it conferred certain rights on the landlords though it did not bestow corresponding rights upon the tenants. But I have already pointed out that with not a very firmly-established Government and supplied with insufficient data, with the wars going on all round and faced with extreme financial stringency, it was hardly possible for the then administrators to do anything more than what they actually did, and the indirect checks which they provided, were in their opinion sufficient for that purpose. Furthermore, they expected that with the economic development of the country and specially with the expansion of agriculture, the people in general would be in the happiest position for "when a spirit of improvement is diffused through the country," as Lord Cornwallis wrote in his Minute of 3rd February 1790[1], "the raiyats will find a further security in the competition of the landholders to add to the number of their tenants." Then again it was also believed that the clearing of jungle land and reclamation of waste lands as a result of the Settlement would bring about expansion of agriculture and thus increase the wealth, not only of a few landlords in the shape of additional income, but of the people in general because of the increase in the national dividend. It may be that all their expectations did not come true; nevertheless it would not perhaps be taking a correct view of the picture, if we believe that the authors of the Permanent Settlement did not take into consideration the welfare of the country or of the

[1]Fifth Report (Firminger's edition, Vol. II), Appendix, p. 532.

people in general, for it may be recalled here that the Permanent Settlement was at that time not relished by the zamindars but was thrust upon them—and as the subsequent default and sale of zamindaris show their fears were not unfounded.

I now come to the second part of the question, viz., whether it has led to a revenue system which is to the benefit of the province. Before coming to the advantages and disadvantages of the system it is necessary to clear certain misconceptions. While discussing the effects of the Permanent Settlement, we should clearly bear in mind that there are certain advantages and disadvantages common to all forms of settlement and there are others peculiar to the Permanent Settlement only; and in any scientific discussion on the topic, there should be no confusion between the two. For example, there is no point in asking as has been done in question 11 whether the Permanent Settlement has created a system of overlordship over the actual cultivators of the soil which is both oppressive and harassing; for this is a charge which can be levelled against any settlement or even against the present arrangement in khas mahal lands.

I shall try to indicate here some of the benefits of the revenue system that has grown up as a result of the Permanent Settlement, reserving the defects for question 11. Any such question should, I think, be considered from at least several aspects. We have, for instance, to consider whether the Government has benefited more under this scheme than under any other arrangement. We should also consider whether the tenants have benefited under this settlement; and also see whether the landlords have benefited more in the permanently settled areas than elsewhere. Finally we have to look at the question from a broader economic and sociological standpoint and find out whether the province has gained anything in particular economically and sociologically from this arrangement.

Looking at the problem from the Government point of view, we find that Government has got certain advantages even now under this arrangement. It is no longer cogent to argue that this settlement is necessary to ensure a minimum revenue for the Government in other provinces too are practically sure on this point and are collecting land revenue with fair regularity. But it may not be perhaps too much to urge—at least from the published figures—that chances of good collection are better in permanently settled areas than elsewhere, at least so

far as Bengal and Bihar and Orissa are concerned. A glance at the following table should make the position clear:—

Percentage of Collection.

Year.		Bengal.				Bihar and Orissa.		
		Permanently-settled estates.	Temporarily-settled estates (Part IIa).	Temporarily-settled estates (Part IIb and c).	Khas mahal.	Permanently-settled estates.	Temporarily-settled estates.	Khas mahal.
1932-33	..	86·24	..	75·85	31·82	96·59	96·69	70·98
1933-34	..	88·07	76·30	82·78	27·07	96·89	91·09	66·26
1934-35	..	90·69	81·59	84·91	25·90	.	..	..
1935-36	..	92·34	80·32	89·98	42·98	..	..	..
1936-37	..	94·62	85·54	41·46, 91·47	50·20	..	..	..

N.B.—Figures collected from the Land Revenue Administration Reports.

It appears from the above table that in Bengal while the Government has been able to realise at least 80 per cent. of total demand in the permanently settled areas, the corresponding figure for temporarily settled areas is much lower, and the same figure for khas mahal lands is amazingly low in spite of the operation of the certificate procedure under the Public Demands Recovery Act. The same phenomenon is noticeable in Bihar and Orissa also. This shows that the landlords act as an effective buffer and fluctuations are minimised in the percentage of collection.

Then again it is a fact—though not always a desirable fact—that under the present system, the Government derives some benefit from the additional stamp duty which would not have otherwise been realised. With the long list of intermediate tenureholders and also with different grades of tenants, there is not only a greater number of registered instruments, but also additional litigation with corresponding augmentation in stamp revenue. I do not, of course, imply that this is a desirable state of things, for all things considered there is a net economic loss. Yet, from the narrow Government point of view, this is a gain which should be taken notice of.

Considering the question from the tenants' point of view and discussing whether it has led to a revenue system which has benefited them, it is very difficult to pass any judgment *a priori*. For any scientific discussion should take account not only of the incidence of land revenue per head of population or per acre in permanently settled areas and elsewhere, but also of the incidence of rent in these areas and compare them, fully taking into account areas assessed, income *per capita* and so on. And if it is found on enquiry that the incidence of rent is lower

in Bengal and that the low rate of rent can be correlated to a low rate of revenue, it can be positively urged that tenants have benefited under the Permanent Settlement. But it is not possible now to come to any definite scientific conclusion; we are to proceed on more *a priori* grounds. It is perhaps true that under the Permanent Settlement, tenants derive at least one benefit. While revisional settlements are carried on in other parts for increasing rent in Bengal, revenue being fixed, rent cannot be increased unless there is a corresponding benefit, as laid down in the Bengal Tenancy Act. Furthermore, there is another advantage to which we have drawn our attention before. It is an advantage of the Permanent Settlement—or in fact of any settlement—that the landlords act as a buffer between the Government and the tenant, first, they cannot realise sufficient rent if there is any scarcity or calamity not followed by any suspension of revenue, and thus draw on their reserve funds for payment of land revenue: secondly, under the present arrangement the period of limitation for realisation of rent is three years, and the landlords generally do not want to have any litigation unless it is going to be barred by limitation. Thus the raiyats normally get an allowance for three years whereas it is hardly possible for any Government to leave its dues unrealised for three consecutive years.

Nonetheless, it is a fact that the Permanent Settlement has led to a revenue system which has adversely affected the position of the tenants at least in two distinct ways. It is needless to emphasise here that the Permanent Settlement shares in common with other forms of settlement, the feature of creating a system of overlordship and vested interests; what is peculiar to this particular system is that it has specially facilitated the growth of intermediate tenureholders by legalising the creation of such tenures through subsequent acts by fixing the revenue in perpetuity. This growth of intermediaries has snapped the link between the landlords and the tillers of the soil and has made it possible for many speculators and farmers having no particular interest in land to intervene in between. This profiteering tendency on the part of many whose interests are not bound up with land has worsened the position of the tenants economically and socially and has led to many complications. This long chain of intermediaries often leads to rack-renting, which might not have been so intensive had there been only landlords and no intermediate tenureholders; further, these tenure-holders have rendered landlords mere sinecurists and have thus most unjustly relieved them of their duties to their tenantry while not taking these up themselves.

It is generally supposed—and there is a good deal of truth in that supposition—that landlords have had the happiest lot under the Permanent Settlement. In fact, the declaration of their rights in the Regulation I of 1793 made their position firm and secure and vested them with a lot of power. The revenue being fixed in perpetuity and

there being an increase in the rental, the landlords have been reaping greater profits and the absence of agricultural income-tax further has enhanced them. Nevertheless, the Permanent Settlement is not without its defects even from the landlords' point of view. For the first thing that requires emphasis is the fact that the incidence of the Settlement is not equal throughout Bengal; a regional study is imperative on this point. The incidence of revenue is plainly higher in West Bengal than in East Bengal and it is not unnatural to find the rates of West Bengal even higher than those prevailing in other temporarily settled provinces. From my personal experience I can say that the Paikpara Raj estate (Senior Section) page 63 per cent. of its Sadar jama as land revenue for its properties in the Birbhum district, 33 per cent. on its Sadar and mufassal jama in the district of Murshidabad and 55 per cent. on its Sadar and mufassal jama in the district of 24-Parganas. It may be mentioned here that the percentage of land revenue to rent is fixed by settlement rules at 55 per cent. generally in United Provinces and Orissa and the landlords have the right to get redress from the Court if the percentage rule is not adhered to. This proves that the Permanent Settlement is not an unmixed blessing from the landlords' point of view and the Government enjoys an advantage in this matter as well, inasmuch as any fixation of revenue on a uniform basis may lead to a decrease in revenue.

But the most important point regarding Permanent Settlement lies in the fact whether it has led to a revenue system which has benefited the province from a broad economic and sociological standpoint. And in this sphere the problem is a complicated one. It would not be difficult to find landlords spending large sums on works of public utility; yet what is a characteristic defect of their gifts is that any considerable portion thereof is not spent in capital improvement of land. It is a sad fact that the proportion of the money spent for the improvement of their estates in comparison with that spent for charity or other beneficial purposes is regrettably small. Nonetheless, the country has so long gained at least one benefit from the revenue system which has developed in this province and that gain is to be found in a large sums spent on charity and in a steady supply of capital to new ventures, industrial or otherwise and in capital improvements too, however small. Thus the pioneer work has been done with the help of the landlords and in the absence of proper banking habits and industrial enterprise, the landlords have proved and we are likely to prove to be an effective source of capital. Then again, as already pointed, the land revenue system has acquired an elasticity in times of crisis and the incidence is spread over a number of people thus minimising the burden. And finally, the revenue system which has grown as a result of the Permanent Settlement has hitherto and is still supporting a large number of people than elsewhere, beginning with the landlords at the top and ending with the

tillers of the soil; and this large number of people has in their turn given employment to a still larger number of officers and employees: and these in their turn have resulted in additional income for many professional classes, specially the lawyers. It is like a snowball, gathering snow as long as it rolls on. It is of course true that this has led to extreme pressure on the soil; but so long as other avenues of employment are not found in industries and elsewhere—and we cannot industrialise Bengal overnight—we have to depend on some sort of employment rather than go unemployed, and the Permanent Settlement has benefited the country in this direction.

Any serious student of the sociological and cultural history of Bengal cannot but recognise the gifts of the revenue system in this direction. The system, we have emphasised over and over again, gave rise to small middlemen popularly styled "the middle class" of Bengal. It is rather difficult to deny that so long this middle class has been the backbone of Bengali culture. The chief credit goes to this class for the cultural advance that we have made in this province as well as for the new ventures in every aspect of life. And the landlords have done an effective service to the country, if not by actively participating in the promotion of culture through their own writings, at least by drawing around them the luminaries of the time and providing a forum for discussion, literary or otherwise. This is, of course, a benefit which cannot be measured in terms of pound, shilling and pence; but this is an aspect of life which any living people can hardly ignore.

Q. 11. I have tried to indicate some of the advantages and incidentally certain defects of the Permanent Settlement and the revenue system growing therefrom in my reply to question 10. But that was not the place for mentioning the defects. I, in general, agree with the defects mentioned in question 11 though I fail to understand how the Permanent Settlement led to the subinfeudation of tenancy. For as we have pointed out elsewhere, Regulation 1 of 1793 did not even recognise under-tenures: and one of the grievances lies in the fact that the tenants had no place in the said Regulation. In these circumstances it passes my comprehension how the said Settlement and not the tenancy laws can be held responsible for subinfeudation not even of tenure but of tenancy. It has however to be pointed out here that some of these defects are common to all forms of settlement—and I am referring specially to the last point. For this is a criticism which can be levelled against all forms of settlement, permanent or temporary or even against the Government so far as khas mahal lands are concerned. Any criticism on this point should not only assail the Permanent Settlement but also other forms of settlement including the present arrangement in Government-owned lands.

Q. 12. My grounds for assailing the Permanent Settlement do not completely tally with those mentioned in the previous question for the defects are in my opinion not only three in number. In my reply to question 10, I pointed out that several advantages are enjoyed by the Government in this province; but the disadvantages are to be found not only in the amount intercepted by the landlord but also elsewhere. A greater defect from the Government point of view—or as a matter of fact from the point of view of national welfare—lies in the fact that under the present system there is no provision for rational steps against the defects of our agrarian economy. The only object repeatedly mentioned in the 18th century literature on this topic is the clearing of jungle and certain similar developments. But nowhere can we find any idea if not planned agriculture, at least of statutory provisions for the improvement of the agricultural industry as well as of the countryside. In fact the whole basis is inherently utilitarian and capitalistic depending largely on private initiative. Nowhere do we get a clearer example of this than in the construction of Article 7 of the Regulation I of 1793 as well as in the provisions in Bengal Tenancy Act for the enhancement of rent (sections 7 & 30). It was expected in Regulation I of 1793 that a fixed revenue would encourage the landlords to improve their land for additional gain; and the same spirit pervades the sections referred to above. But besides these indirect ways of encouraging a policy of agricultural development, the Government has nowhere up till now adopted a direct way of compulsory agricultural development on any large scale. Thus the Permanent Settlement is responsible not only for this policy of drift in an industry so vital to our province—viz., the agricultural industry but also for the creation of a large number of vested interests and legislative definitions of their rights thus leaving no room for Government interference in the interest of the country.

Reviewed as a sociological phenomenon, the Permanent Settlement and the revenue system springing therefrom have led to a complex stratification of our society. These various groups having different interests have formed the different strata, and it is a misfortune of Bengal that this stratification has in cases more than one coincided with the division into different castes, sects and religion. For example, it is a very common phenomenon to find in Bengal that one class of people generally belong to one group of caste while people of another stratum to another. That is to say, the bourgeoisie of a particular locality may belong to one caste and religion, the petit bourgeoisie to another caste or religion while the members of the lowest stratum to still another caste or religion and as is common to our country such societal divisions tend to become hereditary thus leading to a conflict of interests not only economic but also racial and religious in its character while grievances perpetuated from father to son add to the complication.

The Permanent Settlement seems to me to have outlived its *raison d'etre*. Some such measure was necessary to transport the country out of a mediæval stage to the complicated socio-economic structure resulting out of British connection. It has been nowhere possible to effect a sudden transition from the primitive economy to the economy of the latest type and some such intermediate step had been necessary. The Government had no sufficient knowledge of the country, the people had no effective training in modern administration, the resources of the country were unknown and undeveloped. Under such conditions, this was possibly the best course for adoption at that time. But we have progressed far and other items of our economic life do not tally with the conditions and the system initiated 150 years ago. We are in fact entering upon a new era of development and all future progress demands that there should be some sort of collectivisation in our economic life. For with further doses of economic progress and correspondence with modern economic conditions all around, a situation is likely to arise, if it has not arisen already, when it should be the duty of every Government to introduce gradually some positive rational policy leading to a systematic development of the resources of the country. And if such a policy is to be entered upon—and we foresee the necessity of such a policy from the little bits of regulative legislation and in the consistent demand for it—it is essential that the Government should have a free hand in planning agriculture.

Thus coming to the question whether a total abolition of the Permanent Settlement now is desirable or not, I may point out that there are two different questions involved in this. That is to say, whether the Permanent Settlement means a total abolition of the zamindari system or abolition of the Permanent Settlement followed by a temporary settlement; for it is quite possible that a repeal of the Permanent Settlement is followed by a temporary settlement with all the present landlords and tenureholders, with rents reduced where necessary on a scientific and uniform basis, and with the landlords' profits fixed at not more than 45 per cent. of the gross rental plus an agricultural income-tax reserved for the purposes of agricultural development only—and such a plan, it is needless to say, may remove some of the present difficulties. But this should not be the aim of Government; for in this era of criticism, there cannot but be fresh difficulties cropping up in near future thus necessitating fresh Government interference. And finally, such a plan would not be able to remedy satisfactorily the defect of the Permanent Settlement so far as a systematic development of agriculture is concerned. Hence any move towards the abolition of the Permanent Settlement only should not stop at the abolition of the Permanent Settlement only but proceed to its logical conclusion and initiate a programme of liquidating landlords and other tenureholders in a wholesale fashion.

Thus the question to me is not one of the abolition of the Permanent Settlement but the zamindari system. I however do not advocate its abolition on the three grounds mentioned. My argument for its abolition would be based on the last defect which I have tried to point out. For what everybody should always bear in mind is that the absence of landlords does not mean an absence of landlordism and there should be at least somebody responsible for doing the duties which the landlords are expected to perform. And from the practical point of view, any Government contemplating the repeal of the Permanent Settlement and a radical alteration of the present structure of society should also take account of the disadvantages—or more correctly of the emergent needs arising out of such abolition—needs, which a sufficiently progressive Government should, I believe, be able to meet. For instance, any repeal of the Permanent Settlement and other radical changes would not only result in the extinction of all the zamindars and tenureholders estimated to be 678,000 in number but also in the unemployment of their officers; also in the partial unemployment of people depending on them- people, such as pleaders, local craftsmen depending on the patronage of the local landholders and so on; also in the limitation in the source of supply of capital to indigenous or modern industries; and in the fall in national demand so far as the purchasing power of these classes is concerned. But if the Government takes up a planned policy of systematic development, these difficulties should not remain unsolved.

What I want to make definitely clear is this:—I do not support the abolition of the present system for merely securing additional revenue for the Government, for there are other devices for that purpose; I also do not support its abolition for making room for certain tinkering measures on the problem of the tenantry, for that is also possible, as indicated later, within the present framework; I do not advocate the abolition of the landlords for consolidating the right of other similar groups who are not the actual cultivators of the soil, for there cannot be any justification of this policy of robbing Peter to pay Paul, when the interest of the country is not served by it; I oppose the abolition of the Permanent Settlement if the Government contemplates it as a merely political measure for patching up present difficulties without agreeing to accept the responsibilities of a progressive or a socialised state in the true sense of the term and to follow a well-systematised plan of agricultural development. I would not support any abolition for example if the future policy contemplates nothing but another settlement with the present occupancy raiyats giving them additional rights. I am definitely of opinion that such a settlement would not only lead to no benefit to the actual cultivators of the soil, but would certainly worsen their position, for small proprietors—and the majority of occupancy raiyats are in fact small

proprietors—are, as a rule, worse masters than bigger ones because of their limited resources and narrow margin; such a settlement is also likely to aggravate the present uneconomic tendencies towards subdivision and fragmentation and alienation and also increase the burden of debt; and what is most important, this would never put an end tc the policy of drift so long followed regarding agriculture and the agricultural economy of our country. But, I do advocate the abolition of the Permanent Settlement expecting at the same time that the Government are prepared to enter upon a new era in the socio-economic life of Bengal, and are ready to develop the resources of the country in accordance with a rational systematised plan, curtailing the present rights of the tenants for alienation or subdivision according to inheritance laws, thus making an all-round drive against illiteracy, unscientific cultivation, mal-adjustment in agricultural production, irregular supply of capital, bad sanitation and health and so on. As I have pointed out before, a temporary settlement or any such measure may solve some of the present difficulties. But that, I must maintain, is no satisfactory solution and it is the duty of every honest Government desirous of bringing any benefit to the Bengal peasant to adopt a radical policy as visualised above. And there is no reason why the Permanent Settlement should stand in the way of bringing relief to our hungry millions, if the policy visualised above is going to be carried out.

Q. 14. I advocate compensation to the zamindars and other intermediate tenureholders. Before proceeding to the reasons for such compensation, it should be made clear that if the zamindars receive compensation, there is no reason why the intermediaries should not; for just as the zamindars regard the Regulation I of 1793 as their Magna Charta, so also the tenureholders would regard the same Regulation and other Regulations such as the Patni Regulation as their record of right. And subsequently just as the zamindars have become proprietors of big estates by investing their capital in land, so also subsequent tenureholders have acquired their right not by a stroke of pen but by capital investment. Thus the principle applicable to the landholders should also be extended to the intermediate tenure-holders.

(1) I now come to the reasons for paying compensation. In the order of the society which we are living in, any right taken away is generally compensated for, except in the case of revolution, total expropriation does not generally take place. The principle of allowing compensation has been accepted even in foreign countries, specially in the States of central Europe where the landlord system has been liquidated. There is greater justification that in this province the rights given by a pledge should, if taken away now, be followed by compensation.

(2) Even if it is agreed that the rights conferred by Regulation I of 1793 were wrongly conferred inasmuch as the tenants were not consulted, it is now a known fact that owing to the stringent operation of the Sunset Law and to the heavy revenue demand during early years of the Settlement, most of the estates changed hands[1]. And since then there are continual changes every now and then. As a result of this, there are only a very few families now who are owning the same estate from before 1793. It cannot be denied that during the last century, other channels of investment being extremely limited, investment in land was thought to be a very safe investment and there was literally a craze for land. Now if we expropriate the present zamindars and other tenureholders without paying any compensation, it would be discriminating one form of investment against another.

(3) Any sudden expropriation would give a rude shock to the economic, political and social fabric of our country—a shock which is not likely to be beneficial to anybody. I have made it sufficiently clear that these vested interests should not remain in a progressive state; nonetheless if we suddenly drive out thousands of men without opening up for them alternative avenues of occupation, the economic problem would be too great for the State. And it would perhaps not be too much to believe that political trouble might arise from this sudden transition from feudalism to a socialist state. Needless to say that our social structure would be thoroughly shaken in this chaos. But if this transition is graduated over a number of years through the payment of compensation, there is every likelihood that there would not be any serious economic difficulty or political trouble. And the scheme would have the effect of preparing the social psychology for the coming era so that the difficulties of transition would be reduced to a minimum.

(4) Apart from these economic or political considerations, expropriation without compensation is not permissible under the present law applicable to India. I would refer to section 299 of the Government of India Act of 1935 and paragraph XVII of the Instrument of

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[1] It has been pointed out by Ascoli that in 1797 estates bearing a revenue of Rs. 8,57,355 or more than two-thirds of the revenue of the district, were ordered for sale in Dacca; and the reason for this was made clear in a letter, dated August 7, 1795, of the Collector of that district who wrote—"It is with extreme concern that I am obliged to send so large a statement (for sales), as I am perfectly confident, the arrear has not proceeded from any mismanagement of the zamindars, but the litigation of their under-talukdars, who file suits in the Dewani Court to evade payment of their revenues!" In 1797, a revenue of Rs. 29,00,000 or 11 per cent. of the total revenue, were ordered for sale; in the following year the actual sales covered estates paying 9 per cent. of the total revenue, but the sale proceeds did not even cover the amount of arrears. A more detailed statement of this is to be found in page 56 of the Fifth Report (Firminger's edition, Vol. I, page 101), the net result being that "in the course of the twenty-two years following the Permanent Settlement, one-third or rather one-half of the landed property in Bengal was transferred by public sale." (*Vide Economic Annals of Bengal*—by Dr. J. C. Sinha).

Instruction to the Governor and paragraph XIII of the Instrument of Instruction to the Governor-General. And the spirit of such reservation was made clear in the Parliament, where Mr. Butler quoted extensively from the J. P. C. Report to show how the absence of this clause may lead to a revolution.

(5) Finally, a scheme for compensation would not be an altogether impossible proposition from the financial point of view. Thus there is no reason why any Government should create further difficulties if it can safely compensate the vested interests without dislocating the economic life or hampering its economic position.

This leads us to the question of the total amount payable and the method of payment. The zamindars who have purchased the estates after the Permanent Settlement have generally done so at a price of not less than twenty times the net profit of the property; and so also the tenureholders. And though the customary rate was at twenty times net profit, it would not be impossible to find out a large number of transactions during periods of prosperity, at a rate much higher than the customary one. And from my personal experience in at least two other provinces, viz., Orissa and United Provinces, I may say that this basis of calculation prevails not only in Bengal but also outside Bengal. Though 20 times would be the general expectation, taking the cue from a recent Bill introduced in the Bihar Assembly by Sj. C. P. Jain, I would suggest a rate of 15 times the net profit of the landlord. It has been stated in question 7 that the amount intercepted by the landlords and other tenureholders is either 9 crores in round figures according to settlement reports (i.e., 12 crores minus 3 crores and odd for the land revenue—*vide* "Land Revenue Administration Report," 1935-36, page 2, paragraph 3) or 12 crores according to cess revaluation figures. There cannot be any justification whatsoever for the huge statistical difference when both the figures are supposed to be based on an actual door-to-door enquiry. In the absence, however, of correct statistics, we have to proceed on a more a priori basis. Even taking the maximum amount, the amount intercepted is only 12 crores and odd. Thus fifteen times that sum would be 180 crores approximately.

Regarding the method of payment, I may suggest that there is no use of complicating the procedure by the issue of bonds and the payment of interest thereon—and then create a sinking fund for that purpose. I would suggest that the Government should keep apart half the increased revenue for the payment of compensation and appropriate the rest for other purposes. Thus 6 crores every year would mean the payment of the whole sum in 30 years—a period not unusually long for a Government. It is of course not possible for an outsider to fill in all the administrative details; nor to anticipate all the complications and constitutional difficulties, if any. But the

method in its general outline seems to me to be a satisfactory one for compensating the landlords and others, without impairing the financial strength of the Government or causing any other financial dislocation.

Q. 16. I have tried to enumerate some of the advantages and disadvantages of the Permanent Settlement as a sociological phenomenon in my replies to question 10 and question 11. And there I have pointed out that from the social standpoint, the province has gained culturally owing to the help derived from this leisured class. Any abolition of the zamindari system, therefore, is likely to disturb this cultural evolution.

But on the other hand, the Permanent Settlement, as indicated there, led to a complex stratification of society and to the conflicts of interests not always economic in character. The State-purchase of zamindaris is likely to simplify this complex structure and to place different interests on an economic basis, thus reducing, if not removing, the conflicting influence of caste, race or religion in this matter.

Q. 17. I have sufficiently emphasised that under any new scheme, the Government should have a free hand in matters agronomic. Thus the purchase of the interests of all the tenureholders between the zamindar and the raiyat is essential for that purpose. This change is expected to lead to great benefit to the country, if the Government do not repeat the not too popular khas mahal system throughout the province, but takes up a policy as indicated earlier.

Q. 18. It is not possible for anybody outside the administrative framework to speak with any degree of certainty on this question; but generally speaking some additional machinery would be necessary for the collection of revenue. But what is more important—additional machinery is imperative for carrying out the policy of agrarian development—additional machinery like the A A A in U. S. A. or the Narcomzem in U. S. S. R.

Q. 19. It may be remarked that khas mahal tenants, generally speaking, enjoy no advantage over tenants under the proprietors of permanently settled or temporarily settled estates. I do not refer to subdivision, subinfeudation of tenancy and other uneconomic tendencies. It is also not possible for an outsider to collect all the details of khas mahal operations. But it cannot be denied that there is at least one glaring disadvantage which the khas mahal tenants are bound to suffer. Generally speaking, the landlords do not take recourse to the Law Court for the recovery of rents unless any due is going to be barred by limitation, and thus the tenants get a respite for at least three years. And there is enough room for the discretion by individual proprietors in this matter; they can—and in fact they do—remit or at least reduce the amount due as interest if they get the arrears of rent at a time. But such elasticity is not to be found in the khas mahal system and the strict operation of the Public Demands Recovery Act

reduces them to the verge of insolvency. If the system was not fit for the permanently settled areas, there can certainly be no reason for its retention in khas mahal lands. And in spite of all this, the collection percentage in khas mahal lands is only 42 per cent. while the corresponding figure in permanently settled estates is 92 per cent.

Q. 20. The Permanent Settlement did encourage subinfeudation by fixing the revenue in perpetuity without imposing duties on the landlords. This led to a big margin and the natural tendency was to let out the land to intermediate tenureholders. But the Permanent Settlement can in no way be held responsible for the creation of such tenures. For had there been no Patni Regulation in 1819 there could have been no patnidar and other intermediate tenureholders.

It was not until 1819, the date of the passing of the Patni Regulation that subinfeudation was possible. It was laid down that:—

> "In practice, the grant of taluks and the other leases at a fixed rent in perpetuity had been common with the zamindars of Bengal for some time before the passing of the two Regulations last mentioned; but notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations V and XVIII of 1812, or in any other Regulations, whether tenures at the time in existence, and held under covenants or engagements entered into by the parties in violation of the rule of section II, Regulation XLIV, 1793, should, if called in question, be deemed invalid and void as heretofore."

The Bengal Government in Sir George Campbell's Administration Report for 1872-73 gave the following history of these sub-tenures:—

> "At the time of the Permanent Settlement, Government, by abdicating its position as exclusive possessor of the soil, and contenting itself with a permanent rent charge on the land, escaped thenceforward all the labour and risks attendant upon detailed mufassal management. The zamindars of Bengal proper were not slow to follow the example set to them, and immediately began to dispose of their zamindaris in a similar manner. Permanent under-tenures, known as putni tenures, were created in large numbers, and extensive tracts were leased out on long terms. By the year 1819 permanent alienations of the kind described had been so extensively effected, that they were formally legalised by Regulation VIII of that year, and means afforded to the zamindar of recovering arrears of rent from his patnidars almost identical with

those by which the demands of Government were enforced against himself. The practice of granting such under-tenures has steadily continued until, at the present day, with the patni and subordinate tenures in Bengal proper and the farming system of Bihar, but a small proportion of the whole permanently settled area remains in the direct possession of the zamindars."

So far as the last part of this question is concerned, I have already tried to indicate some difficulties in connection with question 10.

Q. 25. The question of tenancy, as I have tried to indicate, should not be looked at from this point of view. I am not in favour of extending this principle, for such extension would not lead to the economic gain of the province. The occupancy right was condemned by the Liberal Land Committee, England in their report with the title "The Land and the Nation":—

(*a*) it is likely to bolt the door of opportunity against those land-workers who have at present no land to farm,

(*b*) it would complicate measures for acquiring land for small holdings,

(*c*) it would burden the occupier with a load of debt,

(*d*) it would absorb capital urgently required for farming development,

(*e*) it would perpetuate the present size of holding, and

(*f*) it would not provide inducements to good cultivation.

Some of these arguments, if not all, are certainly applicable to Bengal; and specially arguments (*c*) and (*b*) have particular importance so far as our peasants are concerned. The future tenancy laws should, in my opinion, follow more or less the Kolkhosi model, as prevalent in U. S. S. R. It may not be perhaps altogether irrelevant to quote a few lines from Barbara Wootton's 'Plan or No Plan':—

"The peasants pool their stock and tools in common though a certain maximum may be kept in individual possession: on a farm which I visited near Kiev each member of the collective farm, I was told, had the right to retain one cow for the use of himself and his family, the others being collectively housed in a communal cowshed. They work the land in common, in the sense that their tasks are assigned by a management committee of the farm, and performed in groups working under a leader, who is himself a member of the collective farm and, in theory at least, elected. Each worker receives a daily wage in money or kind, or partly in each, which is not necessarily the same for all workers, rates being graded according to the amount of work performed, or the skill required for it."

Thus the unit should be the collective farm and not the tenant or sub-tenants. Of course this may not prove acceptable to many, but any pursuit of the policy of scientific agricultural development cannot logically stop before this step. Nor is there any reason for being alarmed at this idea of taking a leaf out of Soviet economy, for as Wootton remarks "the collectives are groups whose personal livelihood depends on the profitable sale of their product; in this they closely resemble the associations of agricultural producers of the capitalist world termed 'co-operative' by courtesy only." In fact the basis of agriculture is now becoming not individualistic in character, but collective. This is evident not only from the Kolkhosi in a collective State, but also from similar collective intervention in various other countries beginning from the Central European States to U. S. A. In these circumstances, the duty of the Government should be not to aggrevate this tendency of individualist exploitation, but make a drive towards collective economy.

Q. 37. I do think that the unrestricted right of transfer given by the Act of 1929 has led to the passing of considerable areas of raiyati land to non-agriculturists and the Act of 1938 has increased this tendency. And such a tendency in my opinion, is certainly prejudicial to the interest of the cultivating raiyats as a whole. In fact such an apprehension arose in the mind of Sir Richard Garth, the then Chief Justice as early as 1884 when the Bengal Tenancy Bill sought to confer this right of transfer; his opinion is worth noticing on this point. He wrote on that occasion as follows:—

"I quite admit that to make the occupancy right saleable would increase its value in the market. But it does not at all follow that this will be beneficial to the raiyat himself. On the contrary, I consider that there is no surer mode of exterminating occupancy raiyats as a class than by permitting them to transfer their tenures; and I believe it would be found, on enquiry, that in those districts where occupancy rights have become transferable by custom, a large portion of them have already found their way into the hands of mahajans and others."

Only see what has happened within the last 150 years in our own country. How many of the old yeoman families, who were the copy-holders and customary tenants of former days (answering as nearly as may be to the khudkasht raiyats here), are in existence now?

If the Government really mean to benefit the occupancy raiyat let them take every possible means of preventing him from ruining himself by parting with his ancestral jotes and becoming the prey of those whose interest it is to deprive him

of his status and property" (*vide* Report of the Government of Bengal on the Bengal Tenancy Bill, 1884, Vol. III, p. 89, Minute by Sir Richard Garth dated 13th September, 1884).

And the advice of the Chief Justice has not lost its value yet, and any reform in this direction should take note of this criticism.

Q. 78. The lack of proper statistics is nowhere clearly demonstrated than in cases like this. There are different estimates, each varying substantially from the other. The Bengal Banking Enquiry Commitee came to the conclusion that the income of an agricultural family that is derived from agriculture alone is Rs. 406 per family or Rs. 79 per head of population, and to this, the Committee added Rs. 44 as the average annual income of a family from subsidiary occupations. And in their estimate, the expenditure is Rs. 420 a year, thus giving a small margin of Rs. 30 per family or Rs. 6 per head. (*Vide* Report, para. 27, page 29.)

The opinion of the Bengal Board of Economic Enquiry does not tally with that of the Bengal Banking Enquiry Committee. The figures collected by the Board of Economic Enquiry are quoted below:—

	All districts.
1928.	Rs.
Cash income	218±4
Cash expenditure	217±3
Surplus or deficit	±1
Debt	112±4
1933.	
Cash income	114±2
Cash expenditure	136±2
Surplus or deficit	−2
Debt	187±4

Vide Supplement to the *Calcutta Gazette*, Jan. 24, 1935.

Mr. Jack in his *Economic Life of a Bengal District* estimated the income of the comfort class to Rs. 365 per annum, that of those in extreme indigence to be Rs. 115 per annum while the expenditure for those two classes is Rs. 249-13-9 and Rs. 101-10 as. respectively. The bulletins of the Bengal Board of Economic Enquiry also make similar attempts so far as different districts are concerned. It has been revealed through personal enquiries on this point in different villages within our estate that the average net income is Rs. 7. I do not guarantee the precision of these figures; nonetheless they are at least good indicators of the present situation.

Q. 83. The question of rural credit has not been satisfactorily tackled at least in Bengal. Debt legislation in this province has most unwisely shaken the credit structure of our country thus restricting private credit without making arrangement for organised credit. I may draw the attention of the Commission to a few pages of my brochure on that topic, a copy of which is attached hereto* (Debt Legislation in Bengal—specially p. 28), and in which I have tried to point out some of these defects as well as some suggestions for the improvement of agricultural credit.

Q. 85. The co-operative credit societies have not, in my opinion, been able to tackle the problem of agricultural credit satisfactorily. I believe that most of the criticisms levelled against the co-operative structure in the reports and bulletins of the Agricultural Credit Department of the Reserve Bank of India are applicable to our province. I am also taking the liberty of mentioning below certain specific cases within my zamindari. Of course it is always risky to generalize from certain individual instances; but these instances, I believe, are not peculiar to the district referred to below but is more or less typical to West Bengal. So far as my information goes, the members of these societies do not form more than 2 per cent. of the total population in the respective villages.

Village—Nabagram : Thana—Nabagram : Subdivision—Lalbagh : District—Murshidabad.

Name of the Members.	Principal.			Interest due		
Nabagram Palli Samiti— Rate of Interest : Rs. 9-6-0	Rs.	a.	p.	Rs.	a.	p.
1. Purna Chandra De & Nishibhushan De	142	8	0	129	1	0
2. Kalikanta Datta	198	0	0	249	14	3
3. Pashupati Saha ..	146	0	0	91	10	3
4. Anukul Laha	163	0	0	173	10	3
5. Gandheswari Bewa	92	0	0	72	6	6
6. Kalipada Mandal	171	0	0	178	14	6
7. Renupada Nandi	157	0	0	160	9	0
8. Gour Chandra De	80	0	0	95	11	0
9. Netai Chandra De	53	0	0	73	0	6
10. Kalipada Ghose	201	8	0	197	11	9
11. Asitabarani Debi	19	0	0	25	3	6
12. Mahendra Kolai ..	45	0	0	46	0	6
13. Bahuballabh Narasundar ..	78	0	0	99	0	3
Total ..	1,546	0	0	1,592	13	3

*Not printed.

Name of the Members.	Principal.			Interest due.		
Nabagram Uttarpara Joint Bank— Rate of interest : Rs. 9-6-0	Rs.	a.	p.	Rs.	a.	p.
1. Ramranjan Pande	29	0	0	Nil.		
2. Sarat Ch. Chakraverti ..	54	0	0	19	3	6
3. Dukhaharan Chakraverti ..	23	0	0	5	5	9
4. Sachinandan Khan ..	67	0	0	11	15	9
5. Bhushan Chandra Mandal ..	Nil			Nil.		
6. Pashupati Narasundar ..	33	0	0	3	6	9
7. Sripati Mandal	38	0	0	14	9	0
8. Gadadhar Chakraverti ..	33	0	0	13	9	3
9. Mahendra Manjhi	21	0	0	3	4	3
10. Abinash Mandal	17	0	0	1	8	9
Total ..	325	0	0	72	15	3

Name of the Members.	Principal.			Interest due.		
Khozardanga Co-operative Agricultural Bank— Rate of interest : Rs. 10-6-0	Rs.	a.	p.	Rs.	a.	p.
1. Kobad Shaikh	84	0	0	67	5	3
2. Jaynal Shaikh	28	0	0	8	9	6
3. Umejan Shaikh	85	9	9	108	11	0
4. Akul Shaikh	120	0	0	131	11	0
5. Imarat Shaikh	36	0	0	45	3	0
6. Oshujan Shaikh	30	0	0	39	9	6
7. Bahali Shaikh	100	0	0	98	8	0
8. Rekatalocha Bibi	86	0	0	92	12	6
9. Wazed Ali Shaikh	45	0	0	61	10	3
10. Sahebjan Shaikh	167	0	0	154	15	9
11. Mobarak Shaikh	36	0	0	23	8	3
12. Khazal Huq Shaikh	104	0	0	148	4	3
13. Taluk Shaikh	134	0	0	182	10	0
14. Khoali Shaikh	Nil			Nil		
15. Gumanee Shaikh	Nil			Nil		
Total ..	1,085	9	9	1,387	13	0

Name of the Members.	Principal.			Interest due.		
Beluri Bhitarpara Agricultural Bank— Rate of interest : Rs. 10-14-0	Rs.	a.	p.	Rs.	a.	p.
1. Mahammad Aminal Huq ..	156	0	0	103	2	0
2. Moktar Ali	131	0	0	87	9	6
3. Mahammad Soleman Shaikh ..	131	0	0	100	6	6
4. Arshad Ali	75	0	0	42	8	6
5. Alena Rahaman	116	0	0	81	0	6
6. Mahammad Zakar Ali ..	75	0	0	50	6	9
7. Khalobar Rahaman	116	0	0	80	14	6
8. Mahammad Sabibulla ..	206	0	0	152	11	3
9. Mirza Ershad Ali	236	0	0	196	11	6
10. Mirza Eusab Ali	206	0	0	139	11	3
11. Paresh Mahammad	106	0	0	74	3	3
12. Etbari Shaikh	75	0	0	53	14	9
13. Mirza Malek Ali	75	0	0	51	9	0
14. Abdul Wahed Shaikh ..	116	0	0	101	10	6
15. Serazul Haque	231	0	0	172	3	6
Total ..	2,051	0	0	1,488	11	0

Beluri Dewanpara Agricultural Bank—
Rate of interest: Rs. 10-14-0

Name of the Members.		Principal.			Interest due.		
		Rs.	a.	p.	Rs.	a.	p.
1.	Abdul Wahed Shaikh	69	0	0	10	0	0
2.	Abzola Khan	47	0	0	34	11	6
3.	Hosina Bibi	47	0	0	32	1	6
4.	Sabiran Bibi	53	0	0	34	2	9
5.	Moktar Ali	37	0	0	27	6	9
6.	Ratan Ram Bhakat	60	0	0	37	10	0
7.	Ekrama Molla	46	0	0	35	4	3
8.	Zunab Shaikh	40	0	0	28	8	0
9.	Afsar Shaikh	67	0	0	45	14	3
10.	Osman Shaikh	53	0	0	40	12	3
	Total	519	0	0	326	7	3

Beluri Khandakarpara Agricultural Bank—
Rate of interest: Rs. 10-14-0

Name of the Members.		Principal.			Interest due.		
		Rs.	a.	p.	Rs.	a.	p.
1.	Jabed Hossain	190	0	0	176	3	6
2.	Nashoo Narasundar	67	0	0	65	6	6
3.	Ebad Shaikh	43	0	0	43	0	0
4.	Nur Mohammad Shaikh	53	0	0	45	3	0
5.	Mahammad Shaikh	77	0	0	76	2	9
6.	Tenez Dewana	63	0	0	52	11	0
7.	Sumarit Shaikh	58	0	0	70	2	3
8.	Lolzar Shaikh	50	0	0	53	5	9
9.	Obla Shaikh	64	0	0	42	4	9
10.	Zubed Hossaina	50	0	0	47	11	9
11.	Ali Hussain Shaikh	90	0	0	86	6	3
12.	Tincori Shaikh (deceased)	10	0	0	5	3	6
	Total	815	0	0	763	13	0

Neemgram Pashchimpara Agricultural Bank—
Rate of interest: Rs. 10-14-0

Name of the Members.		Principal.			Interest due.		
		Rs.	a.	p.	Rs.	a.	p.
1.	Mahammad Waresh Ali	60	0	0	29	8	6
2.	Matlab Hossain Chaudhury	180	0	0	155	15	6
3.	Arshad Mallick	78	0	0	65	7	0
4.	Nayebjan Khan	115	0	0	128	12	3
5.	Shaikh Selamuakha	100	0	0	86	13	0
6.	Osman Shaikh	50	0	0	30	3	0
7.	Nur Mahammad Shaikh	80	0	0	65	3	6
8.	Setab Mallick	100	0	0	72	14	0
9.	Zeanesa Bibi	110	0	0	61	14	6
10.	Abdul Aziz	125	0	0	104	12	0
11.	Saifulla Shaikh	200	0	0	169	12	0
12.	Zubed Hossain Chaudhury	100	0	0	92	6	0
13.	Lekjan Bibi	105	0	0	99	12	9
14.	Wazed Ali	60	0	0	39	8	6
15.	Jan Bibi	60	0	0	39	8	6
	Total	1,523	0	0	1,242	7	0

Name of the Members.			Principal.			Interest due.		
Shilagram Shaikpara Co-operative Bank (Agricultural)— Rate of interest : Rs. 11-8-0			Rs.	a.	p.	Rs.	a.	p.
1. Ibrahim Shaikh	..	..	60	0	0	..		
2. Peeroo Shaikh	..	..	80	0	0	..		
3. Enayat Shaikh	..	..	37	0	0	..		
4. Earjan Shaikh	..	..	75	0	0	..		
5. Himmat Shaikh	..	..	75	0	0	..		
6. Sahebjan Shaikh	..	..	68	0	0	..		
7. Jameer Shaikh	..	..	55	0	0	..		
8. Quasim Shaikh	..	..	62	0	0	..		
9. Murkhat Shaikh	..	..	44	0	0	..		
10. Taher Shaikh	..	..	73	0	0	..		
11. Erphan Shaikh	..	..	57	0	0	..		
12. Makim Shaikh	..	..	37	0	0	..		
	Total	..	716	0	0	..		

Reply by the Chief Manager, Tagore Raj (Mr. D. Chatterjee).

Q. 1. The objects stated were not the only objects of the Regulation I of 1793.

The memorable Minute of Lord Cornwallis, dated February 3 of 1790, may also be referred to.

"The history of this settlement may be traced upon the public proceedings; and I trust that the state to which it has reduced many of the landholders will suggest to the Court of Directors very strong arguments in favour of a permanent assessment, and prove to them the justness of Mr. Shore's own observation:—'That the mere admission of the rights of the zamindars, unless followed by the measures that will give value to it, will operate but little towards the improvement of the country; that the demands of a foreign dominion, like ours, ought certainly to be more moderate than the impositions of the native rulers. and that, to render the value of what we possess permanent, our demands ought to be fixed; that, removed from the control of our Government the distance of half the globe, every practicable restriction should be imposed upon the administration in India without circumscribing its necessary power, and the property of the inhabitants be secured against the fluctuations of caprice, or the license of unrestrained control.'

"I trust, however, that it cannot be imagined that I would recommend that the proposed settlement should be made with a blind precipitation; or without our having obtained all the useful information that, in my opinion, can be expected of the real state and value of the different districts."

The Permanent Settlement Regulation was enacted from a consideration of the urgent necessities of the State which were complicated, and not, only to confer any benefits on the landlords.

With the decline in the importance of the Company's trade "it became essential to ensure the financial success of the administration". The revenue was not being duly collected, there were huge arrears, and the Directors and shareholders of the Company in London were getting nervous about their dividends. Successive schemes adopted had proved abortive, and Lord Cornwallis was sent to India with special instructions to settle permanently, so that it would ensure the realisation of a minimum amount of revenue. Thus the primary objects were as stated by Mr. Ascoli (page 73)—

(1) "To place the revenue paying agency on a definite footing and to expedite and assure the payment of revenue.

(2) To ensure a minimum revenue.

(3) To free the hands of officials for other sphere of administration;"

and then

(4) "To promote the extension of cultivation";

and History shows how far these objects have been achieved.

The revenue system was in a muddle, and though several systems were adopted, every one of them proved a failure. The realisation was difficult, and huge arrears accumulated. The Company's servants were almost all dishonest and no papers could be properly scrutinised. In such a state the only expedient was the Permanent Settlement, for which twenty years' experience gave them a certain data to work upon. A large number of officers had so long been engaged for the collection, which though was unsatisfactory, the hands of those officers were too full, and they could not be usefully engaged in other departments necessary for good government. Two-third of the country was full of jungle (*vide* Colebrooke), there were no means of safe communication, and attention was so long not given to improve them. The Permanent Settlement gave them an immunity from the heavy costs of collection, assured them a minimum revenue, provided them relief from any expenditure for improvement of agriculture; and the fifth object in view and one of the most important of objects, viz., *to collect a loyal body of influential people to support them in maintaining internal peace and defence,* was also secured.

The country was at that time almost in the hands and under the influence of several Nawabs and Rajas with whose help Lord Clive could secure a footing in the country; after securing a footing, they could not establish themselves, however, they might try; they were being engaged in wars outside, the French and Portuguese were giving them trouble, and so they thought that the support of the influential Rajas and Nawabs or rather zamindars, was absolutely necessary; and for the support a settlement with them in perpetuity was a necessity.

A reference to the evidence of Mr. Pattle, a former member of the Board of Revenue, may be made in this connection—

"The country brought under the Decennial Settlement was for the most part wholly uncultivated, ... public credit was at its lowest ebb, and the Government was threatened with hostilities from various powerful Native States. Lord Cornwallis's great and comprehensive mind saw that the only resource within his reach in this critical emergency was to establish public credit and redeem the extensive jungles of the country. These important objects, he perceived, could only be effected by giving to the country a perpetual land assessment,.................."

The description of the duties and obligation of zamindars are exhaustive. They were more stringent than what their duties were in the pre-Permanent Settlement days. By the Regulation I of 1793—

'The zamindar was faced by the immediate prospect of being liable to pay a revenue, which in view of the difficulties of realizing rents from his tenants, was very heavy. Over his head was brandished the axe of the sale, ready to descend and destroy him if the smallest arrear accrued; it was the law of sale that rendered the Permanent Setlement unpopular. It is true that estates had been sold for arrears of revenue as early as the year 1774, but the ordinary method of realization had been either the imprisonment of the proprietor (or more usually of his representatives) or the temporary lease of the defaulting estate to others; these methods, however, seldom proved successful in preventing the zamindar from continuing to realize the rents. The realization of arrears of revenue had previously been a long-drawn-out process, often an unsuccessful process: it was now to be certain, automatic and immediate. In the payment of the revenue the zamindar was confronted by two dangers, that of a year of scarcity and famine, and that of a contumacious tenantry. Fortunately for the zamindar the closing years of the eighteenth century were season of great plenty, but the other danger was rampant. 'It is with extreme concern,' wrote the Collector of Dacca in 1795, 'that I am obliged to send so large a statement (for sales), as I am perfectly confident, the arrear has not proceeded from any mismanagement of the zamindars, but the litigation of their under talukdars, who file suits in the Dewani Court, to evade the payment of their revenues'." (Ascoli's Early Revenue History of Bengal, pages 74 and 75.)

No rights of the tenants were taken away; they continued to be more and more contumacious to evade payment of their just dues. There were no laws compelling them to pay their dues puctually and with regularity, and the zamindars were left with the liability to pay a highly extortionate revenue with no power to realise his just dues from his tenants. This contributed to the immediate failure of the objects of the Permanent Settlement and many zamindars went down under the hammer, and many old families became extinct.

At the time of the Permanent Settlement, the raiyats had no apparent desire for permanancy and would not have the rent fixed. The great Revenue Administrator Mr. C. T. Buckland as Commissioner of Burdwan wrote in his letter No. 115, dated the 22nd June 1875, to the Secretary to the Government of Bengal:

"5. Prior to the Perpetual Settlement, the papers collected in the celebrated Fifth Report tend to show that fixity of revenue and of

rent was a subject on which the party who had to pay either revenue or rent had a great objection to fixity and consolidation of the sum to be paid. It was so much the practice of the native Government to demand a sudden increase on the revenue or rent, that the object of all liable to pay was to keep their admitted or fixed liability at the lowest figure. For instance, an annual payment of Rs. 5 of revenue or rent was calculated as follows:—

	Rs.	
	2	the admitted asli or fixed rent or revenue.
	1	abwab.
	1	mathut.
	1	fouzdaree abwab.
Total	5	

Therefore, although this Rs. 5 might be paid annually in a consolidated sum and without objection, still the payer was tenacious of the principle on which the calculation was made; because if a sudden imperial order arrived to double the demand, the double would be taken as the double of Rs. 2, i.e., the asli jama, and not as the double of Rs. 5, which included abwabs, mathut, &c.

6. When the perpetual settlement fixed the amount of the revenue payable to Government by zamindar, and relieve the zamindar from the liability to any novel or additional demand of revenue, there was no real change made in the status of the raiyat as rent-payer to the zamindar; but the Regulations attempted to provide that there should be a general exchange of pottas and kabuliyats between zamindars and raiyats, which would have had, to a great extent, the practical effect of giving fixity to the rent payable by the raiyat.

7. The status of the raiyats, as described in Mr. Shore's celebrated Minute of June 1789, regarding the Permanent Settlement of Bengal, is clearly applicable to their position when the Regulation of 1793 took effect. Mr. Shore says that there were two fundamental distinctions in the tenures of raiyats:—

Firstly, when the rents are calculated upon an asal or original rate, with an addition of the cesses subsequently imposed.

Secondly, where a fixed sum is paid for a specific quantity of land at so much per bigha, without any other distinction. The raiyats holding under this form are compelled to stand to all losses, to pay for the land whether cultivated or not, and have no security against demand but desertion.

8. Mr. Shore next observes that there are also two distinctions of importance with respect to the rights of the raiyats. Those who cultivate the land of the village to which they belong, and either from length of occupancy or other cause, have a stronger right than others, and may, in some measure, be considered hereditary tenants, and generally pay the highest rents. The other class usually cultivate lands belonging to village where they do not reside. They are considered as tenants-at-will, and will not submit to the payment of so large a rent as the other class, and, when oppressed, easily abandon the land.

9. Mr. Shore says that it would be endless to attempt to describe the subordinate variations in the tenures or conditions of the raiyats Where discretion has so long been tho measure of exaction; where the qualities of the soil and the matter of the produce suggest the rates of the rents; where the standard of measuring the land varies; and where endless and often contradictory customs subsist in the same district and village, the task must be nearly impossible.

10. Reference is then made by Mr. Shore to the abuses which existed, and the arbitrary imposition of special additional cesses on various pretexts, and the want of formal engagement between the renters and raiyats are specially noticed. On the other hand, it is stated by him that the raiyats derived advantages even from these abuses. The want of engagements, or of precision in the terms of them, afforded them opportunities of imposing upon the landlords. Artifice was opposed to exaction, and often with success. It was found that the raiyats showed an aversion to receive pattas, which ought to secure them against exactions, from apprehension that the rates of their payments being reduced to a fixed amount, this would become a basis of future imposition.

11. It is sufficient for the present purpose to sum up briefly the position in which the Permanent Settlement left the zamindar and the raiyat; the zamindar with the demand of revenue fixed forever against him, the raiyat with demand of rent unfixed and uncertain, and apparently with no desire that it should be fixed."

Colebrooke in his Remarks on the Husbandry and Internal Commerce of Bengal says in page 45:—

"In recognising a proprietary right belonging to zamindars, no more can have been intended than to disclaim all pretensions on the part of the Soveriegn to a property in the soil, not to abridge or annul the rights and privileges of other classes."

No rights of the tenants were taken away by the Regulation I of 1793, but they became so obstructive and contumacious in evading payments that laws later on had to be enacted for the punctual

realisation of rents, in order to ensure a punctual payment of revenue by the zamindars.

Rather it was that the rights and privileges, that the zamindars were in the enjoyment of, were curtailed and abridged by the measure. This will be evident from what follows below:—

Lord Cornwallis, while acknowledging the rights of zamindars contended for by Mr. Shore, and the force of the latter's reasoning, maintained that individual rights and immunities should give way to considerations of Imperial interests and necessities. His Lordship said in his Minute of February 3rd, 1790—

"I admit the proprietary rights of the zamindars, and that they have hitherto held the collection of the internal duties; but this privilege appears to me so incompatible with the general prosperity of the country, that however it may be sanctioned by long usage, I conceive there are few who will not think us justifiable in resuming it."

The principle was adopted in Regulation XXVII of 1793. Its preamble runs as follows:—

"Experience having at length proved that prohibitory order for preventing oppression were not attended with the desired effect, it was determined on the 11th June 1790, to take from the land-holders the power of imposing and collecting duties; and to exercise this privilege immediately and exclusively on the part of Government. The consequences of this measure were expected to be the effectual abolition of many vexatious duties on articles of internal manufacturer and consumption, as well as on exports and imports; the supression of many petty monopolies and exclusive previleges, which had secretly been continued to the great prejudice of the lower orders of the people; and as the natural effects of the reform of these abuses, benefit to trade, and ease to inhabitants of the country in general. A further consequence expected from the exercise of this privilege was future opportunity of augmenting the public revenue in case the exigencies of Government should render it indespensably necessary, without increasing the assessment on land."

The above clearly establishes that beyond the assessment of a fixed revenue, the Permanent Settlement did not confer any boon on the zamindars; rather the measure freed the raiyats and "other lower orders of the people" from "vexatious,"—but not illegal—duties and imposts. It also took away some of the privileges and benefits which the zamindars were in the enjoyment of through "long usage". The great mind of Lord Cornwallis foresaw how the revenue could be fixed forever without impairing the resources from which the

economic interest of the country could progress unhindered, and trade and commerce could prosper; and he offered the bait of fixity of revenue to the zamindars, which they were made or induced to accept, as a relief from the vexatiousness they had been subjected to by the ever-increasing fluctuations in the amount of Government demands.

Q. 2. The Permanent Settlement recognised the property in the soil to lie in the zamindars. In reference to this question close scrutiny was made of the rights of all parties particularly that of the tenants. Mr. Shore in paragraph 389 of his Minute, dated 18th June 1789, said—

"The raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed; but this right does not authorise them to sell or mortgage it, and is so far distant from a right of property."

While the Permanent Settlement declared the zamindars to be the proprietors of the soil and fixed the amount of their revenue, it declared that the tenants must be treated according to the prevailing custom.

Mr. Henry St. George Tucker in his book (published in 1825), "Review of the Financial Situation of the East India Company in 1824," said in pages 92 and 93 as below—

"The rights of the zamindars were contested by persons of high authority; but Lord Cornwallis who naturally revolted at the extravagant proposition of the Sovereign being the universal landlord, at once cut the knot, by deciding, that if the landholders did not exist, they ought to exist and must be created; and as a consequence of this determination, the zamindars whose connection with the land was more immediate and apparent, were recognised by our Government as the proprietors of the soil; a reservation being expressly made at the same time in favour of the rights of any other parties, who, by virtue of prescriptive usage or otherwise, might be able subsequently to establish an interest in the land."

Thus it was not that all landlords of whatever description and origin were given the benefit of the Permanent Settlement, but it was only those "whose connection with the land was more immediate and apparent" that were given the right. The raiyats also were given the privilege of establishing their rights; and they were at liberty to apply to the Government where the zamindar was exceeding his rights. *Vide* Lord Cornwallis Minute of February 3, 1790, paragraph 2.

"The cultivator therefore has, in such cases, an undoubted right to apply to Government for the protection of his property, and Government is at all times bound to afford him redress."

All tenancy legislations subsequent to Permanent Settlement has been directed avowedly with this object. The zamindars before the Permanent Settlement were in the full enjoyment of powers of enhancing the rents of the raiyats and of realising abwabs under many designations, but the Permanent Settlement restricted these powers. Their other powers of realising tax on internal commerce were taken away and their sayer collections were abolished.

In Mr. Tucker's book above referred to we find in page 94—

"We endeavoured at the same time to limit their demands for rent, and to preserve the right of occupancy to their raiyats and under-tenants."

In this way the Permanent Settlement to a certain extent regulated the usage of the land, and, in the answer to question 3, we shall see that the result of the Permanent Settlement has always been the improvement of the economic interest of the province.

One of the essential ingredients of a right of property is the right to choose the person who will enjoy the said property. As we have seen above, beyond the limitations to the rights of the zamindars imposed by Government in legislations subsequent to the Permanent Settlement as regards raiyats with a right of occupancy, zamindar has the absolute right to choose his tenant; and, even in cases of raiyats having rights of occupancy, these tenants could not sell or mortgage the lands (*vide* Shore's Minute referred to earlier in answer to this question). It follows then that beyond the prescriptive right of user by a raiyat the zamindar had the right to choose his tenant from before Permanent Settlement, which confirmed this power by recognising him as the proprietor of the soil.

As regards new settlements, there have been no restrictions imposed; rather we have in Regulation VIII of 1793 that the zamindar has the power to let his lands "in whatever manner he may think proper".

Q. 3. The zamindars have played a very important part in the economic development of the province. In fact, no institution can, even now, boast of any importance without the hands of the zamindars contributing directly or indirectly to its success. Look wherever one may like, the impress of the zamindar is on every institution whether it is a social, moral, religious, educational, charitable or even an agricultural institution. The big zamindari bunds of old, and the big tanks and dighis which intersperse the countryside were neither constructed by the Sovereign nor by the tenants. In fact many of these are still being maintained by many zamindars. Even now, when there is a project mooted for the development or improvement, the zamindars, though disintegrated, shorn off all

their powers and privileges, and reduced to the position of dependence on the sweet will of their tenants for the collection of their just dues, do not hold themselves aloof, but come out with their purses to help as much as it lies in their power.

In continuation of the evidence of Mr. Pattle that has been quoted in my reply to question 1, Mr. Pattle observed as below:—

"Admitting the sacrifice was very great, I think it cannot be regretted when it is considered what difficulties it conquered, and what prosperity it has introduced and achieved. For my part I am convinced that our continuance in the country depends on the adoption of that measure, and that our stability could not otherwise have been maintained unaltered."

That the country was industrially prosperous before the advent of the British there is no doubt; that this prosperity was a thing of the past not very long after the Permanent Settlement, there is equally no doubt. The following is a quotation from Page 9 of the Notes on India by Dr. Buist of Bombay (India Reform No. III published in London), which will establish this proposition.

"Its indigenous manufactures, now fast hastening to decay, were once on a scale of magnificence worthy of its raw produce. The correct forms of ships—only elaborated within the past ten years by the science of Europe—have been familiar to India for ten centuries; and the vessels which carried peacocks to Ophir for king Solomon, were probably the same as the fishing craft of the present day, which furnish the models the American and English clipper and yacht builders are aspiring after. The carving of its woodwork, the patterns, colours, and texture of its carpets, shawls and scarfs, admired for centuries, have, since the great fair of the world been set forth as patterns for the most skilled artificers of Europe to imitate. From the looms of Dacca went forth those wonderful tissues that adorned the noblest beauties of the Court of Augustus Cæsar, bearing in the eternal city the same designation sixteen centuries ago as that by which cotton is still known in India; and the abundance of Roman coins and relics up to our time occasionally exhumed yet preserve traces of the early commercial connection between the two most wonderful nations in the world—those of the Cæsars and the Moghuls. The rarest gifts Bengal could offer its native princes or its foreign conquerors, were the muslins known as "the running water," or "the nightly dew,"—being when wet scarcely distinguishable from either; and since the advent of the English, a single piece, twenty yards in length, and one and a quarter in breadth, weighing no more than fourteen ounces, has been sold for twenty-five pounds, a sum equal to the requital of three Dacca spinners and weavers for twelve months."

This was the condition prevailing when the collections of the internal duties on commerce, etc., and other imports was in the hands of the zamindars, and when they were in the exclusive enjoyment of monopolies, and of duties on exports and imports. These powers were taken away by the Regulation I of 1793 and Regulation XXVII of 1793 and the country's trade, commerce and industry were taken upon in the nursing care of the then Government. Somehow or other this prosperous condition and industrial development became a thing of the past after the Permanent Settlement but the zamindars cannot be blamed for this. The economic interest of a country grows *pari passu* with the industrial development, and one cannot grow when the other lies moribund; but whatever improvement in the economic interest of the country has since been made, it has certainly been due to a great extent, to the efforts of the zamindars.

The good and improved results of the Regulations were evidenced by the fact that the Company though its trade was then declining, could carry on the administration and wage its almost never-ending wars outside Bengal without detriment to its financial resources and without even limiting or lessening the amount of its dividends paid to its share-holders.

In Dr. Wilson's "Mill's history of India", Vol. VI, page 671, it is said—

"In every year of our intercourse with India even in those in which the public revenue has fallen far short of the expenditure, there has been a large accession to English capital, brought home from India...................."

Mr. Tucker in page 34 of his book (A Review of the financial situation of the East India Company in 1824), wrote

"The living spring was drained for the moment; but it was not destroyed. Embarrassed as we were, in some degree, at the instant, the Government consigned to the Court of Directors, in the very ship which conveyed Lord Hastings to India, the sum of £300,000 in specie and bullion; nor could it have been prepared in 1815 to undertake an expensive war, if at the close of 1813, the sources of our prosperity had not remained unimpaired and abundant."

Before 1793 two-third of the land was jungle and waste land, and the land tax which was the only source of revenue could not be regularly and punctually recovered in its entirety. Zamindars and capitalists were shy to make any agricultural enterprises in view of the prevailing system of periodical assessments of revenue. Since the introduction of Permanent Settlement, though for 15 years the realisation of revenue was not very satisfactory,—I call this the period of transition,—not only the land revenue was being realised

with clock-work regularity, but new sources of revenue were opened out, the yield of which was considerably more than the land tax. That the zamindars have contributed towards this development, and that because of the Permanent Settlement, is amply evident. On the 20th October 1833 the Commissioner of Burdwan reported—

"The Bengal of to-day offers a startling contrast to the Bengal of 1793; the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement......................A great portion of this increase is due to the zamindari body as a whole, and they have been very active and powerful factors in the development of this prosperity."

Mr. Tucker in his book referred to above, in page 103 said so far back as in 1825—

"Still, there are persons who, witnessing the flourishing condition of the Bengal provinces, and knowing that the rents and income of the zamindars have, in many instances, been immoderately increased, seem disposed to impute to Lord Cornwallis an improvident sacrifice of the public revenue. The inference is as gratuitous, as the imputation is unjust. The prosperity of the country and the growing opulence of the zamindars, are the happy effects of the Permanent Settlement."

"Those effects would probably never have been produced, if the Settlement had never been made. Secure to man the produce of his industry, and he will be industrious. Provide for the security of his property and it will be embarked in works of public utility, advantageous to the individual, and beneficial to the community at large. But if the deadly hand of the tax-gatherer perpetually hover over the land, and threaten to grasp that which is not yet called into existence, its benumbing influence must be fatal, and the fruits of earth will be stifled in the very germ."

In pages 107 and 108 he wrote—

"By limiting the demand of the exchequer, the residuary produce of industry became a property, and the labour of the country was stimulated into active employment. A widlerness, as if by magic, was converted into a garden; capital was created; the surplus produce of the soil was preserved; and the abundance of one province, or of one season, supplied the deficiencies of another. Famine, that scourge of a numerous population, has been averted, as far as it can be averted by human means; and during a period of thirty-five years. in which unfavourable seasons and deficient harvests have certainly been experienced. Bengal has not only enjoyed plenty at home, but has assisted largely in supplying the wants of other countries".

It may pertinently be asked here as to who contributed to this prosperity as evidenced by Mr. Tucker in 1825; not the Sovereign, the East India Company, which were busy in paying dividends and waging wars in Southern India. The fiscal system introduced by Regulation I of 1793 was the main cause of such prosperity.

These effects were the very results that were anticipated by the great mind of Lord Cornwallis. "It is expressly stated in the preamble to Regulation XXVII of 1793 that the Legislature in resuming and abolishing the sayer" which was kept out of the Permanent Settlement Regulation (I of 1793) or internal duties and taxes had these objects in view: firstly, the promotion of commerce; secondly, general relief of the inhabitants from oppressive taxes; and thirdly, the augmentation of income "in case the exigencies of Government should render it indispensably necessary to augment the public revenue without increasing the assessment on the lands."

Assertions now-a-days are too common that the zamindars never did nor have done anything generally for the improvement of their tenants. To make a negative assertion is very easy and against it cases of liberality are not accepted as sufficient to disprove the general charge of callousness. We can however refer to the great famine of 1873-74 which devastated the countryside generally, and I think one may with profit refer to the well-known Minute of Sir Richard Temple, the then Lieutenant-Governor of Bengal, on the services rendered by the zamindars during that famine. Extracts from the Minute are given below:—

"I must, however, premise by remarking that there are two important points which cannot be fully set forth in specific details of this character, namely, the effect of the suspension or remission of rents, and the gift of land to the State, free of cost, for relief works.

"In most cases it is probable, and in many cases, it is certain, throughout the distressed districts, that the zamindars and landholders of all classes have suspended the collection of a considerable portion of their rents.................. They (the zamindars) must all have suffered at least temporary pecuniary loss, and some must have undergone great inconvenience. Large numbers, perhaps many thousands of lesser landholders, who cannot be formally designated as distressed, must nevertheless have suffered a severe distress, the full degree of which will never be exactly known. It will be found, too, that for the period of the famine and scarcity, the land revenue is paid in by the zamindars in a manner which is satisfactory and creditable to the working of the Permanent Settlement.

"As a general fact, I may mention, that the total of the sums taken out by zamindars, landholders and merchants, both European and Native—chiefly by Natives as advances from the public

treasury, amounts to forty lakhs of Rupees or £460,000; partly for improvement of the land, partly for the benefit of the tenantry, partly for importation of grain. These advances will doubless be punctually repaid. They were taken by the recepients not at all for their own benefit, but for the sake of doing good offices to those with whom they were connected by ties of fellowship, of neighbourhood, or of social relation. The magnitude of the sum total represents a great effort made by the upper classes of society on this occasion."

To that Minute was annexed detailed lists of the contributions and liberality of the zamindars. That the material condition of the raiyats was prosperous and progressive even after such a disastrous famine and the magnanimous conduct of the zamindars will be evidenced by the reports of the several Commissioners of Divisions published in the supplements to the "Calcutta Gazette" from November 1873 to August 1882. The resolutions of Government on the reports of the Divisional Commissioners were discontinued in the Gazettes in 1880 and 1881, for which years the Administration Reports of the Government of Bengal may be referred to.

The zamindars of to-day though much crippled by law and agitation and also by successive enactments, further and further limiting their resources and depriving them of the means of realisation, still retain that spirit of liberality, and even in the recent distress caused by flood and scarcity in 1931-32, and also of this year, many a zamindar and landholders have practically suspended their rent collections; and I know of one zamindar—the Maharaja Tagore who has absolutely stopped realisation of all interest since 1931 up to the present date, and over and above that remitted a quarter of his net dues thrice since that year (1931). He contributed also liberally as much as possible towards the relief fund, started in the locality this year (1939). Others must have also contributed and perhaps more liberally, but that cannot be widely known, as none of these truly aristrocratic class of people will blow their own trumpets.

In closing my answer I would invite reference to the remarks of Mr. Ascoli quoted at the end of my answer to question 12.

Q. 4. The simple answer to this question is the Regulation I of 1793 itself which "formally" declared and confirmed that the right of property in the soil was in the zamindars. The word "zamindars" was used in a very wide sense. In the pre-Permanent Settlement days there were several tributary princes, who, beyond paying a tribute to the Sovereign, exercised the power of a king in the internal fiscal administration of his principality or zamindari, in the maintenance of law and order and in the defence of his territory. We yet

remember the 12 Bhuiyas of Bengal who were more than territorial magnates.

During the Muhammadan Government the office of the zamindar was recognised as hereditary. The question as to the person in whom the right of property lay was at length discussed in the Grant-Shore-Cornwallis controversy. Mr. Shore declared—

"The rents belong to the Sovereign; the lands to the zamindars."

Seventeen years before the Permanent Settlement, Mr. Francis, afterwards Sir Phillip Francis wrote in 1776—

"The inheritable quality of the lands is alone sufficient to prove that they are the property of the zamindars, talukdars and others to whom they have descended by a long course of inheritance. The right of the Sovereign is founded on conquest, by which he succeeds to the State of the conquered prince; unless, in the first instance, he resolves to appropriate and transfer all private property, by an act of power, in virtue of his conquest.............. When the Moghuls conquered Bengal, there is no mention, in any historical account, that they dispossessed the zamindars of their land................."

When the British assumed the direct administration of Bengal in 1772 they at any rate found the zamindars in possession, exercising in full the right of proprietors. There were then many Rajas who could date their possession from before the Muhammadan rule, and their possession was not disturbed, rather it was confirmed in some cases in the reign of the Emperor Akbar. The Sovereign Power, whether Muhammadan or Hindu, claimed a certain portion or share of the produce of every bigha of land, and, subject to the payment either in kind or cash of such assessment, the zamindar exercised full proprietary rights of gift, sale exchange, etc.; and beyond the Government assessment, all that he realised was his own. The charge of police, the maintenance of law and order, the administration was also in his hands, and the raiyat had no Courts or tribunals where he could appeal questioning the Justice of his demands.

Mr. Shore (afterwards Lord Teignmouth) in his Minute of 18th June 1789 said—

"I consider the zamindars as the proprietors of the soil, to the property of which they succeed by the right of inheritance, according to the laws of their own religion; and that the Sovereign authority cannot justly exercise the power of depriving them of the succession nor of altering it when there are any legal heirs. The privilege of disposing of the land by sale or mortgage is derived from the fundamental right, and was exercised by the zamindars before we acquired the Dewani."

Lord Cornwallis in his Minute, dated the 18th September 1789, said—

"Mr. Shore has most ably, and, in my opinion, most successfully, in his Minute delivered in June last, argued in favour of the rights of zamindars to the property of the soil. But, if the value of permanency is to be withdrawn from the Settlement now in agitation, of what avail will the power of arguments be to the zamindars for whose rights he has contended?"

Again, his Lordship writes:—

"Altogether, however, I am not only of opinion that the zamindars have the best right, but from being pursuaded that nothing could be so ruinous to the public interest as that the land should be retained as the property of Government, I am also convinced that failing the claim of right of the zamindars, it would be necessary for the public good to grant a right of property in the soil to them or to person of other descriptions. I think it unnecessary to enter into any discussion of the grounds upon which their right appears to be founded."

Lord Cornwallis also said in his Minute of 3rd February 1790.

"I admit the proprietary right of the zamindars and that they have hitherto held the collection of the internal duties."

Lord Lyndhurst, that very learned Judge says as reported in Moore's Indian Apeals, Vol. 1 ,page 348, as below:—

"It is to be gleaned from these Regulations that the proprietors of lands in India had an absolute ownership and dominion of soil, that the soil was not vested generally in the Sovereign, that proprietors did not hold it at the will of the Sovereign, but held the property as their own............ I think it is impossible to read those articles without coming to the conclusion that the zamindars and talukdars were owners of the soil, subject only to a tribute, and that it was the object of the Regulation to make that tribute fixed and permanent."

The late Mr. Justice Sarada Charan Mitter in his Tagore Law lecture explained the question very accurately with reference to the case reported in 19 W. R. Page 8 (Rajkishen *vs.* Ramjoy) as below—

"The zamindars were the only class of persons whom in the then existing state of things the Government could look to for punctual realisation of State dues. There was at the time this important body who had widely different sources of origin, but known to the Muhammadan Governors by one name only. Some of them had long ancestries to tell, beginning at a period co-eval, if not anterior, to the Muhammadan conquest of Bengal. Many of them were

hereditary princes, owing only financial allegiance to the authority of the Great Moghuls or his viceroys. Their law of succession was the law of principalities—primogeniture. Even those who were of recent origin were very influential and wielded power not much inferior to that wielded by the very ancient families. The more influential and the intelligent amongst these were, to borrow a modern expression, members of the viceregal council at Murshidabad. They were ministers of State, and the government of the country was practically, to a considerable extent, entrusted to their hands. If we classify them, the first class would represent the old Hindu Rajas of the country, whose ancestors had held independent principalities or principalities that owed only nominal allegiance to the Imperial Government, either Hindu or Mohamedan. The Rajas of Assam, Tippera, Cooch-Behar, Bilaspur, Birbhum and Chota Nagpur may be placed in this class. The second class consisted of the great landholding families that came into existence during the Muhammadan Government through its sufference or favour. The Rajas of Rajshahi, Dinajpur, Burdwan and Jessore with many others were *de facto* rulers in their own states or territories, and used to pay only fixed tribute or land tax. They were like feudatory chiefs. The third and the most numerous class consisted of persons whose families had held offices for collecting revenues for two or three generations and who thus claimed a prescriptive right to hold on. Then there were the revenue farmers who, since the grant of the Diwani in 1765 had been placed in office and also happened to be called zamindars. Thus all the persons of families known as zamindars in 1790 were not merely collectors of land revenue or tahsildars removable at pleasure. The office of zamindar had, in fact, in most instances become hereditary, and they paid fixed sums of money to the Nawab's treasury, more as tribute than as land revenue. The Nawab sometimes extorted more money than the settled or customary amount, but that was not by right or law, but by might or violation of law. When the Government of India, that is to say, the power in England and Governor-General's Council in India, agreed in dealing with all these zamindars in the same way as if they were feudal lords, some of them were no doubt raised in position and emoluments, but the status of many of them was lowered."

The Shore-Grant-Cornwallis controversy and all the controversies that were raised after the promulgation of Regulation I of 1793, was generally on the question whether the property in the soil lay in the Sovereign or in the zamindars. There were of course some contestants on behalf of the peasants, but the precarious condition of their tenures precluded all ideas of proprietorship of the land to lie in them. In the pre-Permanent Settlement days, the tenant exercising the best right was the khudkasht kadeemee tenant who had his

possession secured, but who had no right to transfer, and this precluded all idea of proprietorship. Proprietorship presupposes several characteristics which the zamindars only were in the enjoyment of in those days—

(1) They had the right to sell and make a gift of their lands; and in discharge of the arrears of revenue occurring, their lands were sold, and the possessor stepped into the same right as his predecessor-in-interest held before him.

(2) They had the rights of inheritance.

(3) In case they were deprived of their lands and the Government framed them out to others they were entitled to a "malikana" from his substitute. The word 'malikana' is significant. This right to receive a malikana can only be reconciled with the proprietorship of the land lying in the zamindars (*vide* Ascoli in the Early History of Bengal, page 43).

(4) The uninterrupted and free possession of nankar lands and other free lands is incompatible with any idea of a temporary tenure.

The proprietary right in the soil lay in the zamindars from before the Permanent Settlement, and it was confirmed by the Regulation I of 1793 after a lengthy and protracted enquiry held by no less a person than the Governor-General, which action was confirmed by the then British Government. That the zamindars in the majority were the proprietors was also the opinion of the majority of his Council, and it was also the finding of that great and eminent Judge, Lord Lyndhurst. The zamindars were not created by the Permanent Settlement, but their rights were confirmed, and by such confirmation limited, by the Regulation I of 1793.' It also lowered the status of the majority of their class.

Q. 5. The pledge was given not by the East India Company alone and on their own initiative. "In 1784 the Act for the 'Better Regulation and Management of the East India Company' was passed by the Houses of Parliament (24 Geo III C 25) to settle and establish the permanent rules by which the tributes, rents, and services of the Rajas, zamindars, polygars, talukdars and other native landholders should be in future rendered and paid."

The Court of Directors issued instructions to the then Governor of Bengal to act in the spirit of the provisions of the Act.

Lord Cornwallis arrived in India armed with the famous letter, dated 12th April 1786, of the Court of Directors, "who considered that the spirit of the Regulating Act, 1784, would be best observed by fixing a permanent revenue on a review of the assessment, etc. etc." Lord Cornwallis considered the question from all points of view and then

passed the Regulation I of 1793. In his Lordship's Minute of February 3rd, 1790, it is said—

"Twenty years have been employed in collecting information. In 1769, Supervisors were appointed; in 1770, Provincial Councils were established; in 1772, a Committee of Circuit was deputed to make the settlement, armed with all the powers of the Presidency; in 1776, Amins were appointed to make a hastobood of the country; in 1781, the Provincial Councils of Revenue were abolished, and Collectors were sent into the several districts, and the general council and management of the revenues were lodged in a Committee of Revenue at Calcutta, under the immediate inspection of Government. Like our predecessors, we set out with seeking for new information; and we have now been three years in collecting it. Voluminous reports have been transmitted by the several Collectors on every point which was deemed of importance. The object of these various arrangements has been to obtain an accurate knowledge of the value of the lands and of the rules by which the zamindars collect the rents from the raiyats."

Thus "it was determined by his lordships after mature deliberation that the settlement should be declared permanent; and that this determination was approved and confirmed by the authorities in England in a letter from the Court of Director bearing date the 29th August 1792" (Tucker's Review, page 96). "This letter is supposed to have been written under the immediate dictation of the late Lord Cornwallis, and with the entire concurrence of the Ministry of the day, Mr. Pitt—Lord Grenville, &c." (Foot-note to Tucker's book, page 96).

It was thus not a hasty measure. Under the instructions of the Parliament the measure was enacted and "delivered" to the zamindars of Bengal. It was not a gift, it was not a boon, but it promised them an indemnity from ever increasing fluctuations in Government demands, while on the other hand it limited their powers. A tax of 90 per cent. on their gross assets was made permanent, their sayer collections were taken away and, they were made subject to a relentless Sunset Law. The zamindars would not accept it,—they did not pray for,—but the measure was thrust on them; not for any humanitarian grounds but for political and economic grounds benefiting the Company. The then zamindars were living land, and, in spite of the great and responsible limitations imposed on them by the Permanent Settlement, they had to shoulder the responsibility though with great reluctance. The effects of the undertaking of such responsibility were disastrous. A quotation from the Tagore Law Lectures (pages 91

and 92) of 1895 on the Land Law of Bengal by the late Mr. Justice Sarada Charan Mitter will establish this point:—

"The revenue fixed was so high that, within the course of fifteen years, the Rajas of Nadia, Rajshahi. Beshenpur, Dinajpur, Kasijora and many others almost submerged under its wave. The Birbhum zamindar was completely ruined. A host of small zamindars shared the same fate. It is perhaps scarcely too much to say that in a few years a complete revolution took place in the constitution and ownership of the estates which formed the subject of the Settlement. The dismemberment was quick and the ruin subversive of its very principles."

The zamindars vested rights were limited by the measure, and they were subjected to an inexorable Sale Law. Mr. Ascoli in page 74 of his book thus states the case:—

"The main points of objection were the amount of revenue assessed, and the means that had been adopted for the enforcement of payment. The zamindar was faced by the immediate prospect of being liable to pay a revenue, which in view of realising rents from his tenants was very heavy. Over his head was brandished the axe of sale, ready to descend and destroy him if the smallest arrear accrued.................... The realisation of arrears of revenue had previously been a long-drawn-out process, often an unsuccessful process; it was now to be certain, automatic, and immediate. In the payment of the revenue the zamindar was confronted by two dangers, that of a year of scarcity and famine, and that of a contumacious tenantry."

The immediate effects of the measure were not very satisfactory as said above. The amount of arrears of revenue increased, though the Sunset Law was being stringently enforced.

To make the measure successful and to ensure the realisation of a certain amount of revenue, the then Government realised, that, unless measures ensuring the realisation of the dues of the zamindars were adopted, there would be no security for the realisation of their own revenue, and so they passed the Regulation XVII of 1793 which declared that the landholders should have the means of "compelling payments from defaulters without being obliged to have recourse to the Court of Justice" and so the power of distraint was provided therein. This measure did not prove very successful, and so Regulation VII of 1799 was passed giving power to the landholders to arrest the persons of the defaulter under process of the Civil Court. This law was further amended by Regulation V of 1812, and these two laws were current for half a century. Thereafter Regulation XIV of 1824 and Regulation VIII of 1831 were also enacted providing for summary suits for arrears to be heard by the Collectors of districts instead of by Dewani Adawlats.

Thus for about half a century the Government faithfully carried out the pledge, and while the zamindars carried out their part of the contract by submitting to the legislation of 1793, the Government also did their part of the contract to do all what was fair and necessary to enable the zamindars to faithfully carry out their obligation. In this way peace was established, jungles were cleared, commerce increased and industries prospered. The zamindars were able also to devote much of their money and time for the development and improvement of estates, digging tanks, wells, etc., by constructing zamindari bunds, by establishing schools and charitable institutions. Thus their power and influence grew with their riches as a result of their investments in land in the full security of the pledge given by the Government of the country, and they thus came to be known as the "natural leaders of the people." This was the ultimate object of the Permanent Settlement. The financiers and capitalists thán began to thing that the land must further be taxed and the Government felt that it would not be wise to allow the influence of the zamindars to grow further. It was then that they began to dig out excuses for curbing down their power and influence over tenants and other people. The result was the enactment of Act X of 1859 which manifestly evinced a revulsion of feeing in favour of the raiyats. This policy was continued, and Act VIII of 1869, Act VIII of 1885, and Act IV of 1928 came one after another, further and further curtailing the powers of the zamindars and reducing them to a position of rent-collectors, worse than that of the alleged rent-collectors of the pre-Permanent Settlement days; and lastly the Act VI of 1938 was enacted further reducing the zamindars to a position of nullity left with absolutely all their means of realisation taken away, except by supplication at the door of his tenants, and by the costly and dilatory procedure of Civil Courts. The contumacy of the tenants, which baffled all attempts of the then Government to come to a stable financial situation in the pre-Permanent Settlement days, the same contumacy of the tenants which made the immediate effect of the Regulation 1 of 1793 so disastrous and which resulted in the elimination of several old and ancient zamindars, and to controvert which the Government had to pass several laws as detailed above, became a desirable commodity with the later day Government. It is now the contumacy that counts with the democratic Government. Mr. C. T. Buckland said in his letter No. 115, dated the 22nd June 1875:—

"Instead of every encouragement and opportunity being given for the adjustment of rents privately and amicably between landlord and tenant, a strong temptation is held out to the tenant to defer the payment of his rent, and to have recourse to the advice of the evil counsellers who live by promotion of litigation."

The situation has now been further accentuated inasmuch as by the passing of the Bengal Agricultural Debtors Act an incentive to non-payment has been provided.

The giving of the pledge with the sanction of the Parliament, and the acceptance of the same was a contract and this contract was strengthened by the conduct of the parties to it. The raiyats could not be any parties to the contract, as their position and rights did not give them any status to be a contracting party. Besides, it being a contract whereby the revenue payble to Government was being fixed for ever, and the raiyat never having any obligation to pay revenue to Government they had no status to join in the contract. It is thus such a contract as is enforceable by law.

As regards the charge of crippling the financial resources of the province, the remarks of late Mr. Justice Sarada Charan Mitter in his Tagore Law Lectures on the Land Law of Bengal will be illuminating.

"Financiers in India now règret that there was this Permanent Settlement, as the zamindars of the present day make large profits. That some of them do make profit is undoubted. A good many of them, however, derive title by purchase, i.e., outlay of large capitals. These financiers think that it is the State, and not the zamindars, who should have profited by the increase of the cultivated area in Bengal and the more manifold increase in the value of the produce. But they forget that the East India Company would have been reduced to bankruptcy, if they had not adopted the principle of Permanent Settlement; they forget, that the vested rights of a large number of zamindars required Permanent Settlement, and that taking all things into consideration the State has not suffered, the ancient Rajas and the cultivators of the soil have suffered. In fact, notwithstanding the Permanent Settlement, the amount of revennue has increased from Rs. 2,85,87,722 in 1790-91 to Rs. 3,70,11,385 in 1892-93 exclusive, in the latter year, of a good many districts. The best authorities, I think, are now agreed that the adoption of the principle of the Permanent Settlement was not a mistake."

We have quoted once from Tucker's book in the answer to question 3; and will refer to the quotation again in this connection:—

"Still, there are persons who, witnessing the flourishing condition of the Bengal provinces, and knowing that the rents and income of the zamindars have, in many instances, been immoderately increased seem disposed to impute to Lord Cornwallis an improvident sacrifice of the public revenue. The inference is as gratuitous as the imputation is unjust. The prosperity of the country and the growing opulence of the zamindars, are the happy effects of the 'Permanent Settlement'.

"Those effects would probably never have been produced if the Settlement had never been made. Secure to man the produce of his industry and he will be industrious. Provide for the security of his property, and it will be embarked in works of public utility, advantageous to the individual, and beneficial to the community at large. But if the deadly hand of the tax-gatherer perpetually hover over the land and threaten to grasp that which is not yet called into existence, its benumbing influence must be fatal, and the fruits of the earth will be stifled in the very germ.

"By limiting the demand of the exchequer, the residuary produce of industry became a property, and the labour of the country was stimulated into active employment. A wilderness, as if by magic, was converted into a garden, capital was created; the surplus produce of the soil was preserved; and the abundance of one province, or of one season, supplied the deficiencies of another. Famine, that scourge of a numerous population, has been averted, as far as it can be averted by human means; and during a period of thirty-five years, in which unfavourable reasons and deficient harvests have certainly been experienced Bengal has not only enjoyed plenty at home, but has assisted largely in supplying the wants of other countries."

A raiyatwari settlement as in Madras is a good project on paper if the charges of collection are eliminated. If we refer to page 26 of Tucker's book we find that in the years 1792 to 1892 while the surplus in revenue had grown, in Bombay and Madras there was considerable deficit in 1797-98, and 1804-1805, and the deficit continued in Bombay, in 1813-14, and 1821-22, though there was a small surplus in Madras. Sir Thomas Munro was the greatest advocate of the raiyatwari settlement, and the Supreme Government in its letter of the 14th December 1811 (Revenue Selections, pages 174 and 175) gave the following as their opinion about the proposition of such a settlement:—

"In treating of the advantages which may be derived from actual surveys, your Honourable Court observe, that 'in the management of the conquered and ceded territories which have been annexed to the subordinate presidencies, this course has been successfully pursued', &c., &c. Possessing only general knowledge of the measures adopted with a view to the adjustment of the assesment in the territories dependent on the Presidencies of Fort St. George and Bombay, and of the effect of those measures, we are necessarily precluded from offering any opinion upon the expediency of the surveys made in those parts of the British dominions; but the experience obtained on the subject in Bengal, would by no means warrant us in recommending that a similar course should be observed in the territories dependent on this Presidency. In former times, recourse was not unfrequently had to this expedient; but the chicanery and the corruption practised by the large body of native officers necessarily employed in the performance

of that duty, the exactions and injustice to wheih the zamindars were consequently exposed, and the heavy expense with which all such surveys were attended, gradually induced succeeding governments to abandon the plan of fixing the public assessment by an actual measurement and computation of the produce of the land of each individual. The practice has long been entirely discontinued, and we are satisfied that the most experienced and capable of the revenue officers would deem the revival of it an evil; but burdensome, and oppressive to the people, and unproductive of any substantial benefit to the pecuniary interests of the State."

In page 135 of his book published in 1825, Mr. Tucker gave the opinion as follows:—

"The principle of the settlement is to take one-third of the gross produce on account of Government; and, in order to render the assessment moderate, Sir T. Munro proposed to grant a considerable deduction from the survey reports. But if it be moderate, how does it happen that the people continue in the same uniform condition of labouring peasants? Why do not the same changes take place here as in other communities? One man is industrions, economical, prudent, or fortunate; another is idle, wasteful, improvident, or unlucky. In the ordinary course of things, one should rise and the other fall; the former should by degrees, absorb the possessions of the latter; should become rich, while his neighbour remained poor; gradations in society should take place; and in the course of time, we might naturally expect to see the landlord, the yeoman, and the labourer. And what prevents this natural progression? I should answer, the officers of Government. The fruits of industry are nipped in the bud."

Again in pages 165 and 166 we find—

"The Honourable Court in their letter to the Bengal Government, bearing date the 14th May 1823, observe generally, that the land revenues of Madras have fallen off considerably since 1813-14, and it is understood that, since the date of this letter, information has been received that remission will be required in that Presidency in the past year 1823-24, to the extent of from 25 to 32 per cent. on the jama or assessment.

"But how does it happen that the revenue should be even stationary at Madras, when it has advanced so rapidly in the Bengal provinces? In our 'ceded and conquered' territory, the revenue has increased in the course of fourteen years; and in the districts in which the 'Permanent Settlement' has been concluded, the rents of the landholders are supposed, in many instances, to have doubled, and quadrupled. Of this fact we have strong presumptive evidence in the augmented value of landed property; and Lord Cornwallis may be said to have bestowed

millions on the people of India, since, prior to the 'Permanent Settlement,' the land had scarcely any saleable value, whereas at the present day, the rate of purchase is, perhaps, higher than in most of the countries of Europe. Is this the case of Madras? Can the privilege of cultivating land, the rent of which it is proposed to raise with the increase of every blade of corn, become a valuable, or a saleable property?"

I have shown above and in also to the answer to the question 4 that, beyond fixing the amount of revenue forever, the Permanent Settlement Regulation crippled the existing rights of the zamindars, took away some of their valuable rights and lowered the status of the majority of them. In spite of the above facts they accepted the Regulation, though with great reluctance, and though later on, it operated very severely with the majority of them. Realising their difficulties the Government passed several Regulations which subsequently ensured them regular realisation of their dues. Thus the pledge and the subsequent conduct of the parties have been in the nature of a contract, legal and enforceable, and the said contract will make the withdrawal of a pledge after such a long time illegal. The position of the capitalists who invested their capital in land in the purchase of zamindaris in full reliance of the security of the solemn pledge will be stronger in a legal action, on the abolition of the Permanent Settlement or on the withdrawal of the said pledge.

Q. 6. In the answers to questions 3 and 5 it has been shown how and why the country and its agriculture prospered. Mr. Tucker has thus given the answer in page 166 of his book:—

"And how is the improvement in the Bengal provinces to be accounted for? Partly from the stimulus given to industry by the limitation of the public demand on the land; partly, from the greater security of property, which has tended to promote the accumulation of capital; partly, from the existence of large estates (a thing proscribed by the "raiyatwari" system), the proprietors of which find it their interest to lay out capital in the improvement of their lands; partly, from the produce of land being in greater demand to supply the consumption of a population increasing in numbers and in wealth; and partly, from the introduction, or extension, of valuable articles of agricultural produce, such as indigo, cotton, sugar, and the like."

Population of a country follows the opulence of the people; opulence does not follow the population. The country had prospered, it invited settlers, its inhabitants were happy and content, and so the population increased. The lands, which on account of their being no incentive to cultivate were lying uncultivated and waste, began to be cultivated; and the zamindars being the only persons who were vitally interested in extending or developing their resources in

order to meet the very heavy demand, though fixed for ever, were the only agents through whose exertions and capital the waste lands which constituted ⅔rd of the province were all cultivated, and thus the resources increased. At such a distant date it will be impossible to assess and apportion the credit between the zamindar and the tenant. There were three parties in such a matter, the Sovereign, the zamindar and the tenant. Beyond fixing the amount of the public demand of revenue for ever, it is nobody's case that the Government did anything to extend or develop the agriculture. As a matter of fact before 1871 the Government did nothing to develop the agriculture. In the enclosure to Mr. Beth's letter to Mr. Dundas, dated 15th May 1789, we find:—

"The agricultors of India within and beyond the Ganges, are still in a state very little different from these adscriptily; and are employed to culture the grounds more for the benefit of the princes than of themselves. The Europeans, who have long possessed territory in that country, and have so greatly extended their territory, as well as their commerce, never turned their attention to the object of agriculture, or teaching the natives................."

The advocates of the tenants while they harped on their abject poverty due to the oppressions of the landlords have nowhere said anything about their benevolent or charitable acts, rather they always required the protection of the zamindars and the Government. It can never be expected or presumed that in such a state the tenants would make any helpful contribution towards the development of the agricultural resources of the country. They might have given help to the zamindars in their execution of the work of development, but to measure the value of such help is impossible at this distant date. Of late years we have heard of a tank being dug here and there, but they are very few and rare. The zamindars are the only body of people left in whose favour there is evidence already quoted in the answer to this as well as in the answer to the previous questions, as to their contribution towards the social, economic and educational development of the country.

Q. 7. As I have not the statistics before me, I cannot say anything about the figures given in the question, but this can be said that probably the figures 3 crores refer to the Bengal of the Permanent Settlement days which embraces now the whole of the present Governments of Bengal, Bihar and of portion of the present province of Orissa. That fact should be taken into account in making any comparison.

As regards the increase in the rent roll, it can be confidently asserted that the increase is mainly and primarily due to the cultivation of waste lands. Mr. Colebrooke in 1794 after making enquiries

proved that at the time of the Permanent Settlement one third of the province was under tillage and two third was waste.

At the time of Permanent Settlement the area under tillage was computed by Mr. Colebrooke to be near about 30,000,000 acres which has increased to about 80,000,000, 70,000,000 acres or near about that in 1884. Mr. Robert Knight of the Statesman wrote in December 1884 in the Introduction to Colebrooke's Essay as follows:—

"Assume, as we safely may, that the gross rental of 1793 was four crores of rupees, observed what it ought to be to-day, without any enhancement at all—

1793.	Extended tillage.	Change in money.	1884.
Rs. 4,00,00,000	2	3	Rs. 24,00,00,000

A rental of four crores in 1793 would represent twenty-four crores to-day, from the mere increase of area under cultivation, and the change in the value of money."

Then again—

"With Mr. Colebrooke's invaluable essay in our possession, we are now able for the first time, to produce the following table of comparative statistics, concerning the land of these provinces, under the Settlement of 1793 and in 1884:—

	1793.	1884.
Population ..	25,000,000 ..	60,000,000 upwards.
Acres under tillage ..	31,000,000 ..	70,000,000 acres.
Gross rental on raiyats ..	Rs. 4,00,00,000 ..	Rs. 13,00,00.000 (less).
Prices of staples—		
Grain	8 to 12 annas per maund.	Rs. 2 to Rs. 3 per maund.
Ghee	3 annas per seer ..	12 to 13 annas per seer.
Cattle	4 to 5 rupees per head	Rs. 20 to Rs. 30 per head.
Wages of Labour (unskilled—		
Agricultural ..	8 annas per month ..	Rs. 2 per month.
Urban	.. ..	Rs. 6 to Rs. 7 per month.
Value of exports estimate ..	£2,000,000 .	£30,000,000
Value of money ..	100	33·0
Gross value of the harvest ..	Rs. 32,00,00,000	Rs. 2,50,00,00,000
Proportion of rents to harvests ..	One-eighth ..	One-twenty-fifth.

It is impossible to overrate the value of these statistics in the present juncture of affairs, when the zamindar is accused of having so abused his powers under the Settlement, to rack-rent and evict his tenantry, that it is necessary for the State to cancel the Settlement."

Another cause of increase has been that the lands held by tenants came into khas possession of the zamindar who settled them again with profit.

Enhancement of rents has played a very little part. In fact if the zamindars had been less lenient to the tenants and more attentive towards the increase of their assets in proportion to the increase in the market value of agricultural produce, their rent roll would have been much more. I quote again Mr. R. Knight in this connection:—

". . . . . . the zamindar has so apathetically and carelessly, or else so timidly, asserted his right, that he has allowed his rents to fall almost to nothing."

Then again—

". . . . . . the zamindar in his turn has asserted his rights so apathetically, or with such timidity that instead of the rental representing to-day as it ought to do, one fourth to one sixth of the produce, it is doubtful if it represents even one-twenty-fifth. Low rentals are the parent of two very serious evils; they lead either to the most careless husbandry, as was remarked by Arthur Young in his famous Tour, or inevitably beget the practice of sub-letting, with its attendant evils of middlemen, and eventual rack-rent. All three processes have been vigorously going on in these provinces since the Settlement. The zamindar has carelessly sub-let to the patnidar, and the patnidar to men below him, until we have a mass of middlemen tenure-holders to deal with, who would never have come into existence at all, had the zamindar but wisely enhanced his rentals as money changed in value, or as the acreage under tillage became widened by the growth of the population. The zamindar's sin has been careless neglect of his own interests, by which the interests of the common wealth have suffered, from their intimate association with his own. Every excuse however, is to be made for him. The Settlement from the very first, made him the butt of every shaft of envy and ill-will. Landlords as a class are unpopular everywhere and always, and there can be no doubt whatever, that it has been the odium incident to every one to attempt to enhance rent, that has made so many of the class sub-let their lands, and the whole body of them show a timidity in the assertion of their rights, that has produced nothing but mischief."

The above remarks supported by the figures gleaned by Mr. Colebrooke will establish that the increase in rent roll was obtained mainly through extensive cultivation of the waste and jungle lands.

What Mr. Robert Knight calls apathy and carelessness was after all probably not so, but the zamindars having their attention engrossed in the extension or cultivation of waste lands, which was bringing them a large yield, would leave the tenants aside to regain their equilibrium after the long years of anarchy and vagaries prevailing in the revenue system of the country prior to Permanent Settlement. For after all, from the experience I have of Bengal zamindars I can say that their attachment to the cause of their tenants is far better than the attachment of those who would abolish the Permanent Settlement, and bring up the rent roll at once to the price of one-fourth of the produce, the standard followed in the days of Emperor Akbar. In fact what are they pleading for? Increasing the resources of the State or of the raiyats? If they mean the former, the raiyats must have to be sacrificed far more than what the alleged rack-renters of old did. As I was saying, the attachment for the tenants, which led the zamindars not to disturb the peace of the tenantry, when money was available from other sources, is the reason why the land was not taxed to the extreme point as Mr. Robert Knight would want it to be.

Q. 8. Answers to questions 3 and 7 may be referred to—

The zamindars were expected to behave with moderation to tenants, and the zamindars did so behave and also act generously by them by not enhancing the rents as they could legally have done. Of course they acted not as self-less altruists. They had their duties to perform, and while performing their duties to their own master—I mean the Government,—they acted very generously, not as Mr. Robert Knight would have them to act. If they had not been apathetic towards their own interests or if there was no Permanent Settlement "Bengal might have yielded the State a revenue of £25,000,000 to £30,000,000 sterling a year from the land alone (kheraj) while the zamindar is ignorantly denounced as rack-renting the soil, by an exaction of less than half the amount." Mr. R. Knight here ignores how impetus was given to commerce and other industries by this moderation of the zamindars.

The disabilities from which the zamindars were suffering immediately after the Permanent Settlement have been stated in the answers to the foregoing questions. These disabilities augmented by the heavy taxation, rendered most of them destitute and insolvent, and disintegrated many of the oldest families. The contumacy of the tenantry in evading the payment of rent, which was one of the principal reasons for the heavy arrears of the pre-Permanent Settlement days, continued even after the Permanent Settlement, and Government had to enact measures to help the zamindars to collect their dues. To restore equilibrium to the zamindari body as a whole while maintaining the stability in the land revenue collections, it took about 40 to 50

years. It was then that the zamindars attained great influence which became the eye-sore to many. Cases of rack-renting here and there were then hunted out to act as an anvil whereon attempts were started to knock down their power, wealth and influence; and this continues up to the present day.

In the action of the zamindar there has always been moderation. There has been the tenancy law empowering the zamindar to enhance the rent every 15 years, and if anybody would care to take a census of the period elapsed before an enhancement had been made in each tenancy, Mr. R. Knight's remarks will be fully established. Another statistics may also be collected from the Civil Courts as to the percentage of suits for enhancement filed in Courts (not suits for increase of rent for increase in area) to the number of all civil suits instituted in the several Courts of the province in any one year. The figures will be illuminating. In my experience of 26 years, first as an Assistant Manager, and then as the Chief Manager of a zamindar having his properties in several districts of Bengal and Bihar, the increases of rents for increases in area, and enhancements obtained during a period of 13 years was very small not even commensurate with decreases sanctioned during that period. The total increases obtained during this period of 13 years was Rs. 3,27,714 of which Rs. 1,29,632 was secured by settlement of khas lands and reformations in the middle of a very big river, thus leaving Rs. 1,98,082 secured by increased rents obtained for increase in area and by enhancements; whereas decreases had to be sanctioned for diluvion, khas purchases etc., amounting to Rs. 2,69,389; and for this there was no enhancement suit nor was any enhancement against the provisions of law. And the major part of the increase was in a mahal which is subject to alluvion and diluvion owing to the fact that three big rivers pass through it. If this is not moderation, I do not know what moderation is.

As regards generous treatment reply has been given in the answer to question 3. In this connection I think I must not be blamed if we again quote from Mr. Robert Knight's remarks on Colebrooke's Essay :—

"Low rentals are the parent of two very serious evils; they lead either to the most careless husbandry, as was remarked by Arthur Young in his famous Tour, or inevitably beget the practice of subletting with its attendant evils of middlemen, and eventual rack-rent. All these processes have been vigorously going on in these provinces since the Settlement. The zamindar has carelessly sublet to the patnidar and the patnidar to men below him, until we have a mass of middlemen tenureholders to deal with, who would never have come into existence at all, had the zamindar but wisely enhanced his rentals

as money changed in value, or as the acreage under tillage became widened by the growth of the population."

Q. 9. It is idle to expect at this date to apportion the activities of the zamindars under several and all other heads of improvement. Generally it has been said in the foreging answers as to how the zamindars contributed to the social, economical, and educational development of the country. Had it been known in early days that the zamindars would have to stand on their trial to prove what they and their forefathers did for the country they would have seen that such a record was kept in the family. The archives of the Government may yet provide details of the doings of the zamindars in the matter of benefactions. Almost all the families of zamindars, either new or old, Hindus and Muhammadans, can cite instances of acts of generosity done for their tenants or the public either, by their forefathers or themselves. As regards absenteeism, that is a device of recent origin manufactured to condemn the zamindars. There are so many zamindars, landlords (patnidars and middlemen of all grades) in the province, and about 90 to 95 per cent. of them live in the village, toiling out their lives now in supplication to their tenants for their bare living. About the 5 to 10 per cent. of the zamindars who constitute the big landlords, they have zamindaris in more districts than one, some in fact spread out all over the province and outside it, and I do not know how they can be expected to live in every part of their estates. They are generally alert to their own interests as well as to the interest of their tenants, they keep all information about their tenantry that is required, and they fully are acquainted with the contumacy, with which their tenants have been evading payments of rent.

I shall conclude this answer with a quotation from the report of the Simon Commission 1929:

"Whatever may be said for the wisdom of the policy carried out by Lord Cornwallis and however absolutely the guarantee then given to the zamindars and their heirs must be fulfilled, the consequences at this time of the day are remarkable."

Q. 10. "Greatest good to the largest number" is an ethical principle. I have no knowledge as to how it has ever been applied to political science. A political entity cannot live on the principle of "greatest good to the largest number". An imposition or a tax cannot be imposed on this principle. Above all, it was never asserted or declared, that by the assertion or acknowlegment of the right of proprietorship in the soil, the principle of greatest good to the largest number was being followed. The Sovereign, the conqueror of a country was declaring the right of a class of his subjects,—nay was recognising such a right, and it was not expected that he would then

be declaring the ethical principle. A king or a conqueror making a grant of a right, or of say a jaigir, cannot be expected to be acting on the said ethical principle.

In my answer to questions 3, 5 and 6 I have quoted freely from Mr. Tucker's book "Review of the Financial situation of the East India Company" published in 1925, to show how the country progressed immensely from the Permanent Settlement. The failure of the raiyatwari settlement in Madras has also been shown in my answer to question 5. Besides, the cost of collection of revenue in a raiyatwari system is not to be ignored. I may be allowed to quote again from the foot-note of Page 125 from Mr. Tucker's book:—

"*See* Sir T. Munro's Letter of the 30th November 1806—'Revenue Selection,' page 94.

If this be the utmost which an experienced Collector can accomplish, what is to be expected from an inexperienced Collector, as described by Mr. Thackeray, one of the advocates of the 'raiyatwari system'? He observes, 'overzealous, but honourable young men, might plunder the country more completely perhaps, than a Mahratta army could have done.' Now, this system, embracing as it does multitudinous details, requires a greater number of Collectors than any other; or (what is worse) a greater number of native officers. *See,* also, Mr. Thackeray's opinion on surveys 'Revenue Selections,' page 859. 'If, indeed, the survey had been equal at first, and could continue so, no loss would result from this freedom (*i.e.*, liberty to throw up over-assessed lands) because the rent being everywhere exactly proportioned to the value of the land, the raiyat, wherever he went, and whatever extent of land he occupied, would have to pay the proportionate rent. But, no survey rate can be so nicely adjusted at first; and, if it could, would soon change. The value and rent of land fluctuates like the value of anything else. But, even at first, we cannot so nicely appraise earth; and, if we could, ten thousand mistakes must find their way into a survey. Frauds cannot be prevented, and erroneous principles are frequently adopted.' And yet this is to be the foundation of the raiyatwari settlement!"

Again Mr. Tucker writes in pages 165 and 166—

"The Honourable Court in their letter to the Bengal Government, bearing date the 14th May 1823, observe generally, 'that the land revenues of Madras have fallen off considerably since 1813-14; and it is understood that, since the date of this letter, information has been received that remissions will be required in that Presidency in the past year 1823-24, to the extent of from 25 to 32 per cent. on the jama, or assessment.'

"But how does it happen that the revenue should be even stationary at Madras, when it has advanced so rapidly in the Bengal provinces?

In our 'ceded and conquered' territory, the revenue has increased in the proportion of about one-third in the course of fourteen years; and in the districts in which the 'Permanent Settlement' has been concluded, the rents of the landholders are supposed, in many instances, to have doubled, and quadrupled. Of this fact we have strong presumptive evidence in the augmented value of landed property; and Lord Cornwallis may be said to have bestowed millons on the people of India, since, prior to the 'Permanent Settlement', the land had scarcely any saleable value, whereas at the present day, the rate of purchase is, perhaps, higher than in most of the countries of Europe. Is this the case at Madras? Can the privilege of cultivating land, the rent of which it is proposed to raise with the increase of every blade of corn, became a valuable, or a saleable property?

"And how is the improvement in the Bengal provinces to be accounted for? Partly from the stimulus given to industry by the limitation of the public demand on the land; partly, from the greater security of property, which has tended to promote the accumulation of capital; partly, from the existence of large estates (a thing proscribed by the "raiyatwari" system), the proprietors of which find it their interest to lay out capital in the improvement of their lands; partly, from the produce of land being in greater demand to supply the consumption of a population increasing in numbers and in wealth; and partly, from the introduction, or extension, of valuable articles of agricultural produce, such as indigo, cotton, sugar, and the like."

That the fact that the rents have not increased four times than what they were at the time of Permanent Settlement, though the prices have increased much over 16 times, is a good that has scarcely been prevalent in any part of India. That this rate was followed even in the settlement of the waste lands, even though the Regulation I of 1793 gave the landlords all powers to impose such rates as they might like to settle new lands, is another good that was prompted by the said Regulation. Interference with internal commerce and manufacture, which zamindars used to make profit by, was forbidden, as they were resumed by Government which has developed them and so industries have prospered. Landlords or those capitalists who come in their place improved their resources from lands, I have said above, by reclaiming the waste lands and investing money on them, and in this were assisted by the laws enacted by the Government for the due payments of rent to them. There was expense or sacrifice of no kind by the tenants. In fact since 1859 all enactments passed have been for their advancement, and reduction and to the prejudice of the interests of the landlords till now, when they are nothing but rent-collectors, and when for the punctual payment of land revenue and for meeting their bare necessities, they have to depend on the sweet will of their smallest tenants. Cesses upon cesses have been unceremoniously imposed in

contravention of the Regulation I of 1793 on the plea that they were not tax on land but cesses on land. Education cess—which is a tax for knowledge has come, and over that all sorts of limitations in the way of prompt and due realisation of their just dues have been imposed in the shape of Agricultural Debtors Act. The result has been that the rate of revenue and road and public works cesses on each acre of land which had already gone up, has still further gone up by the imposition of education cess; and the realisation of rents on the other hand has been crippled. It is generally known that the acreage rate of revenue in the western districts of the province is much higher than the rate in the eastern districts, and this was mostly due to the fact that at the time the Permanent Settlement was concluded the country that side was full of waste lands, marshes and jungles.

It may be contended that the zamindars are only charged with the payment of the cesses, whereas beyond a certain percentage they can collect it from their tenants. They, however, forget the fact that the khas lands most of which do not yield any profit have been so highly assessed, and due to diluvion, reduction and non-payment, a large percentage cannot be collected every year; and the inequity lies more in the fact that the zamindars are not allowed any collection charges.

As an example I would cite the following instance. In 1344 B.S. (1937-38) the estate, which I have the honour to serve, was charged with educational cess for its mahals in the district of Mymensingh. The demand was near about Rs. 64,000 a year, but as the notices were served late, quarter was remitted for that year. Thus the demand for the year was about Rs. 48,000, out of which, with the utmost possible dilligence and strictest supervision, only about Rs. 22,000 was possible to be collected. This year there could be no collection, so to say, under this head on account of distress.

This is the wanton sacrifice to which the landlords have been subjected to, and this sort of oppression started since the year 1859. Against this the tenants have nothing beyond some reports collected here and there about the oppression of a landlord. Black sheep there must be in every fold, but the generality of the landlords should not be convicted therefor, inspite of the glowing tributes given to their benevolent acts by Government, press and other public bodies.

I cannot close this answer without an observation about the tenants in general. Their social, economical and education uplift for which the zamindars, as I have said above, contributed not a little, do not continue to be the same now, as they were before even 1885. By the overzealousness of their supporters, who seem to have overshot their mark, their rural credit has absolutely been killed. All the local

institutions to which they used to look up to in times of adversity have been abolished or strangled, and now it is not an uncommon sight that a tenant having cattle, horses, lands, etc. and, with all their rights extended, increased, and made valuable by successive legislation, cannot raise even a small sum of money in their extreme distress except with extreme difficulty.

The Permanent Settlement is the only responsible factor in the creation of the middle class of Bengal, which is so strong in even the whole of India. This is a "good", which the enlightened section of our countrymen cannot but be grateful for to the great measure.

Q. 11. This question after all has given the patent objection of the critics of Permanent Settlement. These critics have been out to destroy an edifice, built up by usage, law and sanction. However I shall attempt to give a reply to the objections.

Objection (i).—Whether 80 per cent. of the income is appropriated by the zamindars of permanently settled estates alone is difficult for me to say in the absence of statistics; and whether the 80 per cent. is calculated on the net return has not been made clear. If the 80 per cent. comes from the actual cultivator or the tillers of the soil, the income is not appropriated by the zamindars alone, but the several grades of intermediate tenants intercept it as between the zamindar and the tiller of the soil, with the result that like the Government the zamindar cannot come in for his share for over 25 per cent. of the total income. Another fact has to be considered. If the 80 per cent. of the income was the portion of a zamindar, the value of a zamindari property would not have gone down so much as in the present day. One has also to consider if the zamindar is on the same footing with his predecessor of the Permanent Settlement days. Devices upon devices have been manufactured to whittle down their influence and profits. Before the Permanent Settlement, beyond the usual rents, they used to realise cesses, duties, taxes and abwabs and their collections from them were more than double the amount of rent. (*Vide* the remarks made in the letter No. 115, dated the 22nd June 1875, of Mr. C. T. Buckland quoted in the answer to question 1.)

There was in fact no limitation to their demands from the tenants. The Permanent Settlement stopped all these realisations and fixed the amount of revenue forever, at the same time declaring that there would be no calls upon them augmenting the revenue. For about 40 years they faithfully carried out the pledge. Then came the road and public works cesses, which avowedly charged both the zamindars and the tenants with a cess, but the Government realise the full amount from the zamindar who is left to the whims of the tenants, the Courts and the caprices of the weather, to collect his contributions made on behalf of his tenants. There is no provision for

the collection charges. The Chowkidari Act, Local Self-Government Act, the Embankment Act added burden upon burden, and above all came the burden of the education cess. The net result now is that the zamindar is now left with the minimum share of the total income,—80 per cent. or whatever it may be, at the present time.

Not content with all this they have put clogs to the wheel by adding to the difficulties in realisation in the shape of Agricultural Debtors Act, and by amending the Tenancy Act.

Objection (ii).—Subinfeudation was there before the Permanent Settlement though in another shape,—Mr. Colebrooke writes in his famous book in page 42:—

"Another distinction arises from the practice of tenants under-letting their lands to other persons. This class of middlemen is numerous. Some are authorised by the nature of their tenure where the rents and limits of the farm are fixed and ascertained; others have an express permission inserted in their lease; most have no justification for this practice which has grown up by abuse, and which is highly detrimental."

And further in page 54:—

"Where Government turned its attention to check these abuses, and, without discontinuing a farming system or relinquishing a high revenue, endeavoured to regulate the conduct of the farmers and to enforce a strict adherence to all existing engagements with occupants and cultivators, the farmers, thus controlled in their avowed oppressions, had recourse to indirect methods. Favouring a few cultivators, they obtained, through their influence, general agreements to authorise exactions and imports. Peasants became farmers of revenue, with a view to granting, on their own authority, reductions in the rent of the lands occupied by themselves; and continued to farm revenue that they might perpetuate their undue advantages. The peasants at last were discouraged by an unequal assessment; and the favoured few did not use to the best advantage of the lands which they held, but formed that class of intermediate tenancy, which has been already mentioned in another place."

The Permanent Settlement wittingly or unwittingly has been the cause of perpetuating or increasing subinfeudation. If one is allowed to draw any inference one should say that the high revenue has been the cause of the continuance of subinfeudation. To shift the responsibility as far as possible on others has been the keynote. By Permanent Settlement the very high rate was maintained, and as a result the big zamindaris came to grief. That disintegrated the big zamindaris and the laws of succession did the rest. As a result the numerous petty landholders grew up and subinfeudation increased more

as an attempt to divide the responsibility to pay the rent or the revenue. The tenancy laws since 1859 have done the rest mostly for subinfeudation amongst the tenantry, by giving absolute powers to raiyats to sublet, and also by the creation of occupancy raiyats invested with more and more powers wrested from the zamindars. Legislation after legislation and especially the Tenancy Law of 1938 have been enacted for the benefit more of these raiyat-landlords, though the Act is professedly intended for the benefit of the actual tillers of the soil. The status of the occupancy raiyats is now in a sense better than the zamindars. The right of the occupancy raiyats has been made transferable in every way, enhancements of their rents have been stopped they can alienate, bequeath, give away, and inherit in the same way as the zamindar, whereas though the zamindar is subject to an inexorable Sale Law, the occupancy raiyat has been given enough opportunities to evade payments of rent to the landlord, or as a matter of fact to evade the decrees of the Highest Court in the province. Subinfeudation has thus conferred great benefit, not to the zamindar, not to the actual tillers of the soil, but to the raiyat-landlords.

Objection (*iii*).—About enhancement the answer to question 7 may be referred to. Mr. Robert Knight accused the zamindars of being apathetic and unmindful of their own interests in not having enhanced the rents of their tenants proportionately to the increase in the market value of agriculture produce, and they are also accused by the advocates of the raiyat-landlords as having enhanced their rents oppressively. One may exclaim "advance you are condemned, go back and you are still more condemned". This is the position of the zamindars.

Mr. Robert Knight says in his introduction to Mr. Colebrooke's essay:—

"The Settlement from the very first, made him (zamindar) the butt of every shaft of envy and ill-will. Landlords as a class are unpopular everywhere, and always, and there can be no doubt whatever, that it has been the odium incident to every attempt to enhance rent, that has made so many of the class sub-let their lands, and the whole body of them show a timidity in the assertion of their rights, that has produced nothing but mischief."

Objection (*iv*).—In my reply to objections (*i*) and (*ii*) I have shown as to how the position has been converted. The overlordship over the actual cultivators of the soil now lies with the raiyat-landlords whose position as regards the zamindars is now that of the "favoured wife" of the Government—rather imposing on the zamindars, than the zamindars imposing on them.

Q. 12. My answer to the question is an emphatic "No". A system which originated in the great minds of great administration like Lord Cornwallis, Mr. Shore, Mr. Francis and others of the same

calibre, the system which was approved by great statesmen in England, men like the celebrated Mr. Pitt, Lord Grenville, Viscount Melville, etc., the system that has worked wonderfully well and prospered, the system that has stabilised the British connection in India, that financed the British to fight its war of annexation in southern and northern India, cannot be abolished at least by the British Sovereign. It can be abolished out of spirit of grudge to kill the goose which has laid eggs, but it cannot be the work of British statesmen. The present Government "may take by force" in 1938 what its predecessor "forced the zamindar to buy in 1793" in order to serve its purposes, but I do not know if that will be a fair and honest deal.

In a note written by that great revenue administrator of recent days, Mr. F. D. Ascoli, he observed:—

"So far as the legal and constitutional position of the zamindars of Bengal and Bihar is concerned, there can be no question at all. The Regulation under which the Decennial Settlement was made permanent, *viz.*, Regulation I of 1793, is definite, precise and categorical. Subsequent legislation, such as the Patni Taluk Regulation in 1819, which definitely legalised the creation of tenures at a permanent rental, still further stabilised the position and made the Permanent Settlement the basis of the whole land tenure system of Bengal and Bihar."

Mr. Ascoli has further gone to say in the same note:—

"But the question does not depend solely on legal and constitutional rights. It is my firm and considered opinion that the whole of the social and economic structure of life in Bengal and Bihar, from the zamindar to the raiyat is based on the Permanent Settlement, and any interference with that structure can only result in an upheaval which would be synonymous with revolution."

Q. 13. The Permanent Settlement was not a hasty measure. It was a measure enacted after mature consideration and all the points raised were then discussed and thoroughly thrashed out—(*vide* Mr. Shore's minute, dated 18th June 1789, and Lord Cornwallis's Minute of 3rd February 1790).

Costs of collection cannot be ignored while thinking of the anticipated increase to be derived direct from raiyats. Percentage of collection from temporarily settled estates and khas mahals has always been less than the percentage of collection from permanently settled estates.

The remarks of Mr. Tucker in his book "Review of the Financial Situation of the East India Company" in 1824, which I have referred to at the end of the answer to question 5 may be referred to as regards raiyatwari settlement.

Temporary settlement will be no substitute. Had it been so good a measure, the results of collection will not be so low as compared with the collection of the permanently settled estates as shown in the recent Land Revenue Administration Reports of Government. In some cases private zamindars were compelled to take settlement of some such estates owing to their situation being in the midst of their permanently settled estates, but with the rapacious enhancements of revenue many farming leases have not been renewed. It will bs interesting also to know the percentage of collection of revenue of the temporarily settled estates with that of the permanently settled estates.

As regards the imposition of a tax on agricultural income, it will be thoroughly subversive of the Permanent Settlement. Agricultural income has up-to-date been held to be non-taxable in view of the provisions of the Regulation I of 1793. That tax will be a tax on land. A reversal of the pledge given will be illegal and will have disastrous effect as shown in the answer to the previous question.

Q. 14. I advocate the continuance of the zamindari system, and strongly urge on the Commission to make such rules as further attempt to get round the principles underlying that system cannot be made, keeping the skeleton of it untouched. The Government did nothing for agriculture, for education, till recently, and the entire burden having been thrown on the zamindars, they tried their very best, and the country has been now what it is. Encomiums have been showered upon them, abuses have been hurled upon them, but the latter stuck whereas the former have been completely forgotten. Inroads on their rights derived from the Permanent Settlement have been made by the Cess Acts and several Tenancy and other legislations as narrated above; and the result has been the creation of another body of landlords stronger and far more immune than the zamindars. These insidious attempts to get round the Permanent Settlement should be effectively stopped.

If it is decided to acquire the zamindaris by paying compensation, this may be done; and if it is done in a fair and square manner after giving due consideration to all the peculiar features of every estate, the zamindars will be glad to get rid of the present questionable security of the Permanent Settlement. Market value or capitalised value of the income of last 10 years or so,—the period of economical depression when the collections of zamindars suffered considerably,—will not be adequate. If the hastabood, or the current demand is taken, and its capitalised value of say 20 years purchase is given, it will then be fair. In arriving at the capitalised value the provisions of the Land Acquisition Act may be adopted but due consideration to separation, and loss of prestige should be duly made—in assessing the value.

In assessing the value the prospective enhancement of rents should also be duly compensated for. The average rate of rent of the raiyats is very low and it can be fairly enhanced. The demand of an Estate should be calculated giving due consideration to the enhancement of rents of its tenants that may fairly be made and on that capitalised value should be arrived at after deduction of revenue and cost of collection.

Q. 15. Compensation may be paid in bonds carrying interest, but the bonds should be Government of India bonds. The bonds may be made redeemable on cash payment after a period to be fairly determined by the Government of India. The rate of interest should be in the minimum 6 per cent. per annum; and this interest should be free from income-tax, as the bond will be in lieu of a permanently settled property—where there can be no further tax on land.

Q. 16. If the Government stops its march after acquisition of zamindari rights, and does not disturb or interfere with the tenure system, the result will mean neither any advancement nor any deterioration in the status of the tenantry. If however they will go on as in the khas mahal or temporarily settled estates, the collection costs will increase, fraud and dishonesty in its agents will creep in and the stabilised system will become disintegrated so that it will take time before a system is evolved out and equilibrium is restored. I have no experience of the system working in the ceded provinces, etc., where long temporary settlements are made; and so I cannot give a correct answer what the result of such a system will be.

To get at the actual cultivator, and to improve his lot, the zamindaris and the interests of the various intermediate landlords will have also to be purchased, and then only the tiller of the soil can be benefited and the resources can be appreciably increased. Otherwise if the principles of preparation of rent roll of temporary settled estates are followed, it will mean an assessment so high for the tenure-holders and other middlemen, that it will mean a total annihilation of this class which has been the creation of the Tenancy Laws since 1859. I should state that in the preparation of rent roll of a tenure or a tenancy having under-tenants, the rentals assessed on the lands of the actual cultivators and the value of the khas lands in the possession of the middlemen as determined according to a certain rate fixed by the Board of Revenue are taken, and, from the total of the same a deduction of 30 per cent. for collection charge and profit is allowed to settle the rent payable by the middleman to his landlord. This rent is very high, has been found to be very high as compared with the rent paid by the middlemen to the zamindar before the resumption of the land as dearah and before it was converted into a temporarily settled estate; the rate of rent paid before the resumption having been less than half of the rent realised by him from his tenants.

Thus the result of the abolition of the zamindari system will in the words of Mr. Ascoli be "an upheaval which would be synonymous with revolution."

Q. 17. If any real good is intended for the actual tillers of the soil, and if the zamindar has to go, there is no reason why another body of landlords should be allowed to remain. That would not be a square deal firstly; and secondly it will depend with what motive the proposed expulsion of zamindars is suggested. If nationalisation is intended, then all landlords of whatever denomination must go. If improvement of agriculture is intended then the material condition of the actual tillers of the soil must be improved upon, by grants from Government as well as by a reduction of rent, now being paid to the raiyat—landlords by the tillers of the soil. If improvement in the resources of the State is intended, I am sceptic about the result. The Government's expense of collection will increase considerably, and their attention will be directed mainly towards this source of revenue and away from the other spheres of action, mainly from the nation-building departments.

Q. 18. This is a question which will be best answered by the proposers of the measure who know what their intentions actually are for proposing such a subversive measure. A scheme may be made out when criticism may be made of it.

It can only be said that, with legislation coming in after quick succession, the establishment costs of each zamindar have increased, and there are several departments and big record-rooms to be maintained. The Government have facts before them, having about 70 per cent. of the estates under Court of Wards, and having so many khas mahals, Government estates, attached estates, temporarily settled estates in their charge, and the Board of Revenue will be the best agency wherefrom an accurate answer may come.

Q. 19. It is impossible to say what a body of persons would prefer, and what not. It is their mentality, their situation, their power of discernment, and their credulity and the influence of people and other outside agencies that determine their expressions of preference or non-preference. Political inclinations also will lead one class of men one way and another class of people the other way. I do not think all measures have been introduced following the inclination of the people. In groups, social, political, economical, agricultural, and in all the different forms of polity, the preferences of people are always different, and in some cases the opinion or preference of men of inferior mentality is guided by a person of superior mentality. So I must not attempt to state what may be the opinion of others. I may only state my experience with reference to one particular question. When the education cess was imposed recently in the district of Mymensingh where

Maharaja Tagore has got extensive zamindari, I, as his Chief Manager was told by a large number of raiyats, middlemen and cultivators of the soil, that they did not like the measure, principally as it imposed a taxation which they could not bear; that the condition and topography of the country was such, that unless there was a school in every village, or in every group of hamlets, they could not send their children to a distant school for about 4 or 5 months in a year; that when cultivation was in full swing they required their sons rather to help them; and that the education that has so long been given being of no use to them, they had no use of it if they were to have it at such a huge taxation. Others said that they had no sons to educate and so they did not want the measure. The more intelligent section held meetings in which they expressed their disapproval of the measure and sent copies of the resolutions to Collector, Premier and every one concerned. Of course there were some jotedars—more politically minded,—who were for the measure, and though they admitted the above objections, they were of the opinion that for a good end sacrifices were necessary. This opinion was of a very small body of persons. And still we have the education cess thrust on the people, like other measures. In 1793 all the zamindars did not want the Permanent Settlement, but it was thrust on them.

Thus it does not matter what a class of persons does prefer. The question is rather what they should prefer.

As regards the khas mahal and temporarily settled tenants enjoying advantages over tenants under the proprietors of permanently settled estates, the question is rather wide. The raiyats directly under the zamindars of the permanently settled estates of course enjoy, the best advantages, as compared with the advantages enjoyed by the raiyats under raiyat-landlords, or other middlemen, especially with regard to the rate of rent. The rate of rent paid by a raiyat direct under the zamindar is much less than the rate of rent paid by the raiyat of a raiyat-landlord or other middlemen, for the obvious reason that these raiyat-landlords and middlemen intercept the income from the actual tillers of the soil.

The proprietor of the temporarily settled estate on the other hand is burdened with a tax amounting to 70 per cent. of the gross demand, and in my answer to question 16 above, I have shown how the gross demand is arrived at. So no room is left to the proprietor for the exercise of any acts of leniency or concession, which are usual with a zamindar of a permanently settled estate. I have also never come across a Revenue or a Khas Mahal Officer who has prepared the rent roll of temporarily settled estate at the expiry of a term of settlement, acting on the principles of humanity or affording relief to the tenants in the matter of rents. Their eyes are generally directed to securing an increase in the rent roll, whatever may have been the permanently settled estates.

As regards khas mahal tenants I have very little experience, but I am told that the rate of rent obtaining in the khas mahals is much above the rate obtaining amongst the tenants direct under the zamindars of the permanently settled estates.

So far for the rate of rent. It must not be forgotten however that the rate of rent of the raiyat cultivators holding under middlemen and raiyat-landlords is much above the rate of rent prevailing in tenancies held direct under zamindars, and also in temporarily settled estates.

As regards other advantages, I should say that I have experience of several temporarily settled estates, where the material condition of raiyats is decidedly much inferior to the condition of the raiyats under the permanently settled estates, even worse in some cases than the condition of the raiyats holding under middlemen.

In this connection I may be pardoned if I quote from my own experience. When in the districts of Mymensingh and Rangpur any tenures or raiyati holdings are made khas, the settlement is entered into directly with the under-tenants who may be on the lands, and when these under-tenants can pay a portion of the dues for which the tenancy or holding was purchased khas, the rate of rent that was being paid to the jotedar by the under-tenant is, in many cases, much reduced, and the under-tenant evinces satisfaction to come direct under the zamindar. This has been the case at Midnapur also in the settlement of the tenancies under patnis that were made khas.

It has also been my experience that when a person has got funds to meet the demand of premium in cases of settlement of khas or garpatni land, he would gladly like to take settlement under a zamindar, than under a raiyat or other intermediate tenure-holder.

Then again the demand of a premium in case of new settlements is generally moderate, and according to a fixed standard rate, except in cases where there is keen competition; and whereas cash payment is insisted on by a zamindar, such demands of premium from tenant-cultivators by the intermediate tenant are generally heavy and they are ordinarily met by execution of notes of hand; and this enables them to bid higher than a rival competitor, with the result that the bid is excessive and leads the poor cultivator into further indebtedness. This will show that the zamindar is not after all such a bad man generally as he is painted.

Landlordism and capitalism are the principles which are abhorred by a class of persons who are now in the majority. Though doctrines and dogmas there are against these institutions, I should say the real motive for such inclination is mainly envy and ill will.

I may again be permitted to quote Mr. Robert Knight from his introduction on Colebrook's Essay—

"The settlement from the very first made him (the zamindar) the butt of every shaft of envy and ill will."

Q. 20. Subinfeudation was there from before the Permanent Settlement. The first part of this question has been dealt with in the answer to question 11 (ii),—and I shall deal with the second part of the question.

The Permanent Settlement did not affect or alter the position of the raiyats, except that it continued the subinfeudation which has been the cause of the high rent, not of the raiyats, but of the cultivators of the soil, who are the tenants of the raiyats and other middlemen; but for that, the extortionate taxation at the time of the Permanent Settlement was indirectly responsible. On the other hand the subsequent tenancy legislations passed since 1859 up to the present day have secured to the raiyats of the zamindars very valuable rights, which were in the exclusive enjoyment of the zamindars. So much so, that the tenants have now got the whip-hand and the zamindars depend now on their sweet will.

I have shown that the condition of the country prospered after Permanent Settlement, but whether there has been any improvement in the material condition of the raiyats since 1885, I have discussed in the latter part of my answer to question 10.

The Patni Taluk Regulation of 1819 has been the effect of Permanent Settlement Regulation. By the Permanent Settlement Regulation the zamindar's power to transfer, lease or gift, etc., was recognised, and by Regulation VIII of 1793 the zamindar's power to let out his lands "in whatever manner he may think proper" was also confirmed. The revenue was so very high, that the large zamindaris were disintegrated, and instead, there came into existence several small zamindars, who, realising the dreadful responsibility of such a high taxation, retained for himself some lands as nij-jote, khamar, etc., and let out the rest to permanent tenure-holders and other middlemen, thus dividing the responsibility to meet the heavy revenue demand.

Q. 21. This question will be best answered by a student of political economy; but from the standpoint of a layman I should say that it would have some good effect on the economic position of the province, if the rents, etc., of the raiyats are maintained in their present figure, and if the intermediate tenants are all abolished or brought up with the zamindars; though the costs of collection and management will be very heavy and the profit will not be so high as expected. Of course, in stating the above, I take the meaning of the province as synonymous with that of "State".

I do not understand what is meant by the "social" position of the province.

With reference to the tenure-holders, I should say that if the interests of the petty zamindars, talukdars, patnidars, tenure-holders and other middlemen are acquired, there is no reason why the raiyat-landlord, a creation of the tenancy legislation will be allowed to remain; and if all these middlemen, etc., are bought up, the chief contribution of Bengal to India in general, a product of English civilisation and culture—I mean the middle class—will be strangled, and in my opinion will be much prejudiced thereby. The profession will be stifled, the agency which supplies the motive for all enterprises, social, and political will be gone, and the financial consequence will be disastrous. The present tenure-holders, deprived of their rights, will be reduced to the position of absolute bankruptcy.

Q. 22. In case of purchase, the question will primarily lie with the purchaser as to how he will dispose of the subject of his purchase. The zamindars who object to the compulsory acquisition will be mainly indifferent, but if their likes and dislikes are consulted, the case of each should be dealt with individually. Many of them would like that, if the valuation of the estate is made on its hastabood or rent roll, the valuation of their homesteads and private lands should be made separately according to their market value and added to the valuation of the estate on hastabood. Others will like to retain the homestead or the private lands, or both, on terms as determined by the purchaser and themselves, after consideration is made of the advantages and disadvantages of the position with respect to the individual zamindar.

In determining what is or what is not the proprietor's private khas land, the provisions of section 120 of the Bengal Tenancy Act may be followed.

In the determination of other khas lands of the proprietor the following consideration will have to be made.

There are several classes of khas lands:—

(1) Reformations *in situ* of the lands of a village which had been lost by diluvion, and for which no abatement of revenue was taken or granted.

This question will involve a question of law; and the procedure of compulsory acquisition followed for such lands must be different. If the mauza was the unit of assessment at the time of the Permanent Settlement, and if for the diluvion of the lands of mauza no abatement of revenue was taken or granted, the proprietary right of the zamindar on the reformation is strengthened, and the Government's obligation to confirm the zamindar in the possession of the reformation

becomes heavier; and so the payment of compensation for lands under water at the time should also be made. This fact should be one to which due consideration should be given.

(2) Proprietor's private lands both in his own occupation, and in the occupation of tenants. Private lands of all classes should be valued in the same way as vacant lands.

(3) Lands purchased khas for outstanding dues of tenants whether possession has or has not been taken, and whether even after symbolical possession has been taken the lands are still in the possession of the old tenants or other trespassers should all be taken, into consideration; and, as if the land are in zamindar's khas possession they should be valued separately as his private lands. This is another class of land where the proprietary right has been strengthened by his purchase of the tenant's rights; and as such additional compensation has to be paid.

(4) Where there has been merger of the tenure-holders' interest in a land, there should be two valuations for the same lands;—one for the zamindar's interest and another for the tenure-holder's interest which has merged.

(5) Other khas lands appertaining to the estate which are at the time under water. These lands have a value and this value should be added to the value of the estate arrived for hastabood.

The criterion for the ascertainment of zamindar's and tenure-holder's khas lands should then be—

(*a*) the Survey and Settlement record;

(*b*) where there is no such record, zamindar's papers, mainly his chitha, khatian and jamabundi, should be looked into;

(*c*) boynama and certified copies of the judgment and other orders of Courts showing khas purchase of the lands should be referred to;

(*d*) proofs of surrender and abandonment by tenants;

(*e*) cadastral survey map, pargana map, or other map or papers, showing the area that is under water.

Q. 23. The occupancy right is out and out the creation of British legislation which started in Act X of 1859; and this creation was made investing the khudkasht tenants of old with rights which were unknown to them from long before Permanent Settlement, and by extending those rights to the paikasht raiyats also, who had absolutely no semblance of these rights. Since 1859 the rights have gone on to increase in defiance of the rights of the zamindars, recognised and affirmed by the Permanent Settlement.

In the old days there were no occupancy raiyats, or raiyats having any rights akin to what they are now in the enjoyment of in the present days. Colebrooke writes in page 39 of his Essay (1794):—

"None of the tenures of Bengal are secure except those by which the rent of an ascertained farm, or field, or of specified quantity of land, is fixed by a lease granted previous to cultivation, for a definite term, or for perpetuity; whether the permanency of it be expressly stipulated; or the lease be framed, as is not uncommon for an infinite period."

Then again at page 38—

"The simplest tenure of this kind requires an annual adjustment upon the actual cultivation. But in many places the raiyats is bound to make good the same amount as in the preceding year, and to pay the excess, if any. This becomes a different tenure; and the stipulation ought to be expressed in the lease."

At pages 41 & 42 he writes—

"A tenant, who cultivates the lands of a distant village, cannot be placed on the same footing with one who uses land in the village wherein he resides. Indulgence in regard to his rent is allowed for the purpose of enticing the distant cultivator; and the inconvenience of remote cultivation makes it necessary that he should be at liberty to relinquish at any time the land which he uses; and, consequently, his own continuance being precarious, he cannot have a title of occupancy, which shall preclude the landlord from transferring the farm to a resident husbandman desirous of undertaking it."

The Permanent Settlement did not lay any obligation on the zamindars except that pattas and kabuliyats should be executed and those terms must not be exceeded. In this connection the letter of Mr. C. T. Buckland, I.C.S., referred to in my reply to question No. 1 may be referred to.

Except that certain classes of resident tenants were hereditary and and so permanent, there is no other affinity between those khudkasht tenants of old and the occupancy raiyats of the present days. These old resident tenants, who were called khudkasht tenants, had the right of inheritance and they could not be evicted so long they paid rent. "Though his title was hereditary, yet the raiyats cannot sell or mortgage his lands" (Shore's Minute of June 1789).

In the same Minute we also find—

"The raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed; but this right does not authorise them to sell, or mortgage it, and it is so far distant from a right of property;"

also

"It is equally understood as a prescriptive law that the raiyats who hold by this tenure cannot relinquish any part of the lands in their

possession or change the species of cultivation without a forfeiture of the right of occupancy".

Thus the rights and disabilities of khudkasht raiyats, the best class of raiyats of the old days, may be briefly stated as below:—

(1) They must be residents of the village.

(2) They must be cultivators of the lands of the village where they reside.

(3) They had the right to inherit.

(4) They could not be evicted so long they paid rents.

(5) They had no right to sell or mortgage, and the zamindar had a right to veto a transfer.

(6) They could not change the species of cultivation as agreed upon between them and the zamindar; and forfeiture was the penalty of non-compliance.

(7) Being the better class of raiyats—residents of the village having the heritable right, their rents were the highest, and as such the margin of profit by subletting was very small.

(8) A purchaser of an estate at a revenue sale could avoid or annul the rights of these raiyats.

The other class of raiyats, the paikasht or non-resident raiyats of a village had absolutely no right at all and they were tenants-at-will. They were not settled raiyats.

On comparison of these rights with those of the occupancy raiyats (creation of Act X of 1859) and also of the newly created, "settled raiyats" (creation of Act VIII of 1885), it will be found that all the rights, that the khudkasht tenants were not in possession of, have been given to these occupancy and settled raiyats, amongst whom the paikasht raiyats of old have also been taken in; and the occupancy raiyats and settled raiyats have been invested with rights by crippling further and further the rights of the zamindars, and to their prejudice, and in defiance of their rights affirmed by Regulation I of 1793.

Q. 24. In view of the answers given to the foregoing questions, where I have tried to show that the zamindars, and not the raiyats, have always been the actual proprietors of the soil, I do not think that there is generally anything in this question which requires a further answer.

For the proposition that the raiyats paid rents direct to the State, I do not find anything in the several Minutes antecedent to the granting of the pledge of Permanent Settlement. That the rent was paid in lieu of the State's obligation to afford protection to their persons and

property and for carrying on the administration, I have no materials before me to support this view. If this was so, much tears would not have been shed by the advocates of raiyats and financiers who think that the State should have all the profit of the rents paid by the tillers of the soil, instead of the zamindars and other middlemen; and there would not have been so much cry for the economic interest of the province.

In my answer to question 1 have given, as much as I could, the connotation of the word proprietor. Mr. Shore also gave the connotation partly in his Minute of June 1789.

Q. 25. In the interest of agriculture I should think that the conferment of rights on the raiyats since 1859 has been a mistaken policy; and the more the rights are indiscriminately extended to different and other subordinate persons the more injury is done to agriculture and other crafts. A worldly person cannot be extra-altruistic in his principles; he can only be egoaltruist. A zamindar may be disposed to help a raiyat direct under him, but not any one holding under his tenant or other persons; and thus the stimulating and timely help to the actual tiller of the soil is restricted. Further the subinfeudation since the tenancy legislation, being of a contrary character than the subinfeudation of the old days, when there was very little margin of profit, the rent of the better class of raiyat being higher than the rent of the lower class, the grades of subinfeudation have greatly increased, with the result that the burden of taxation has been very heavy on the tillers of the soil. Unless steps are taken to check this subinfeudation, the grant of superior right to the tillers will not improve the situation.

This point was lost sight of in 1928 when they extended occupancy right to some of the under-raiyats. The policy was extended in the Act of 1938. Very few now remain of the under-raiyats who have no occupancy rights. It is not just that they should remain deprived, when others of their class will be enjoying the said rights.

Q. 26. If it is the intention, as it should be, of the Legislature to benefit the actual cultivator of the soil, let him be invested with the occupancy right and his landlord should then be classed as a tenure-holder. The definition of the word "raiyat" should then be changed. A raiyat who took settlement of a land with the object of cultivating the same should be an occupancy raiyat, so long as he cultivates the land himself; but if he materially abandons his intention and ceases to cultivate the major part (say 3/4th) of his land, he should cease to be an occupancy raiyat, and should be a tenure-holder, with the 1/4th part let out to under-tenants being treated as the khamar land of the tenure-holder. If the raiyat however retains ¾th of the land in his own cultivation and lets out the 1/3 to under-tenants he continues to be a raiyat

and the under-tenants of the 1/3 part should have no rights of an occupancy raiyat. This will check further subinfeudation to a great extent.

Q. 27. The Permanent Settlement Regulation was enacted for giving fixity of revenue and for extension of cultivation, and thereby for the improvement of agriculture. Sayer collections were abolished, and by Regulation XXVII of 1793, all duties of trade and commerce and all internal duties of export and import were taken away from the zamindars. Before the Permanent Settlement, ground rents had to be paid by those who were not engaged in tillage; and when abandoning the place of abode, they could not take away the huts even, without payment of compensation. The sayers constituting of tolls and imports and other internal duties were abolished and resumed by Government; before the Permanent Settlement, the zamindars were in the enjoyment thereof, and the husbandmen were allowed the enjoyment of the homestead and other places of trade. "The revenue of fruit trees is paid either in kind by a share of the produce, or in cash upon a numeration of the trees". "The revenue of piscaries is obtained by occasionally drawing the fishery on the landholder's account". These husbandmen had never any right in the land. "Ground rents were not usually levied from raiyats engaged in husbandry, but this immunity lasted no longer than while they maintained their tillage". The zamindars derived their income from the husbandry and crafts, by imposts. These sayers being abolished and resumed, it follows, that the Government took upon itself the duty of protection of these classes of people, and the trade and industry of the country.

Thus the zamindar's duty to give protection to non-agriculturists, there was none, after the Permanent Settlement; and for these reasons I am against granting any rights beyond such as are contracted for between such non-agriculturists and the zamindars.

Q. 28. There is absolutely no such reason. "Agriculture and the improvement thereof hath ever been the principal and primary object of all wise and beneficent Governments. Because on it depends the population of the country, the comfort and happiness of the inhabitants and also the wealth and power of the State. For unless it shall be encouraged and promoted, the other arts, including manufactures and commerce, cannot possibly flourish: they cannot even exist".

Protection of agriculture only was aimed at by Permanent Settlement in an indirect manner, but the Government by resuming the duties on trade, commerce, etc., took up the responsibility of their protection on their shoulders, as I have said in my reply to the previous question. Thus it follows that agricultural lands converted into non-agricultural purposes requires no protection. The Tenancy Act provides

for eviction and damage in cases of conversion of land to non-agricultural purposes.

The State already levies a duty on profits for such non-agricultural lands in the shape of income-tax. The zamindars also pay this tax; and so what other additional tax is suggested, is not comprehensible. If this additional tax is proposed to be generally levied from all, that will require an answer quite different from the present purposes.

Q. 29. I should rather think the number of bhagchasis is on the increase. The reasons are that the bargadars having no right are preferred for the cultivation, where the return is immediate in a shape of crops. Small families who have large areas to cultivate and have not the means for cultivating the same through hired labour, or middle class peole who do not take to plough and have other avocations, prefer this system, though the return is smaller. Widows and minors favour this system out of necessity. Exodus to towns after employments, and aversion to agriculture due to the present system of high education are other reasons for the increase.

Another reason is that, with the rights of the raiyats having become transferable, the holdings are more easily passing into the hands of village capitalists who are non-agriculturists, and who instead of letting them out to people on raiyati rights, thus limiting their own rights, cultivate the lands through this system of bhagchas. There is also the reason of the growth in the number of landless people, who, being unable to pay premium for taking settlement of lands, prefer to take lands in bhagchas, and the raiyat and other landlords being averse to take to plough get their sustenance by this means. To add to this, the more affluent of raiyats who have now transferable rights are averse to let out lands on cash rent basis, thus creating rights in limitation of their own, and so take recourse to this system in cultivating their khamar lands. Small landholders or zamindars also follow them for the same reason. Fall in the price of staple food crops, especially in these days of depression, is another reason, in that the tenants secure the food for the consumption of their families without going out to buy them in the market.

Another alarming reason is that rural credit having been absolutely strangled, and with the diminution of the rupee value, the cultivators are inclined more towards storing more crops for their food, and so they are averse to let out the lands on cash basis.

There is another indirect cause. The produce rent system is almost non-existent nowadays; and, with the passing away of that system, the bhagchas system has been on the increase.

Q. 30. The suggestion (*i*) does not appear to me to be correct. If occupancy rights are given to all the bhagchasis, it will, in my opinion stifle the system, and this will cause a great deal of inconvenience to those poor landless cultivators, who depend on this system for their food. Raiyats and other small landlords will not like to have the bargadars of their khamar lands getting rights in limitation of their own. Barga system admits of great abuses. In such a system either the barga tenant, or his landlord, whoever is weak and is not full of cunning, must suffer; and in the case of bigger landlords, the landlord may lose equally with the bargadar, though the landlord's agent may profit by the system. A strong bargadar will defy his landlord-sharer in many ways. There are various systems of barga and the abuses are different with different systems prevailing. For the prevention of these abuses produce rents were allowed to be commuted, with the results that there are almost no tenancies with produce rents in the present days.

Suggestion (*ii*), as has been stated in answer to question 29, has contributed to the increase to a small extent. When the land passes into the hands of a capitalist who is also a cultivator, it is then only that he at times gives away his lands in bhagchas. I do not think an out and out capitalist will come to let out his lands in bhagchas, as he will hardly take the trouble to go to the plot of land or village to collect his share of the crops.

Suggestion (*iii*) is a cause of increase, and it has been accentuated by the operation of the Agricultural Debtors Act. Creditors not being available, one in distress has to sell his lands to meet his financial difficulties, and the buyer, not being able to get any candidate for the settlement of the lands able to pay a premium for such settlement, lets out the land in bhagchas. In fact, loss of rural credit is the root cause mainly of the increase in bhagchas.

There is a certain system of bhagchas which has been prevalent in a certain locality since a long time; in fact many families are bhagchasis from generation to generation having their homesteads on the lands. The kut lands of Midnapur are examples of the same. Almost all the lands of a village are held in such a system. The reason is due to the fact, in my opinion, that the lands are high lands yielding one crop only, and that also not in abundance, and the land is subject in some cases to inundation. The lands are inspected by the landlord's agents when they are under crops, the agents estimate the yield, which is valued at the market rate, and share of that value in cash is the landlord's portion. This system is full of abuses, due to which the landlord, if he is not able himself to visit every field, is not benefited. These cultivators will not take the lands on cash-rent system, because the yield of the crop is very uncertain. This class of bargadars is not on the increase.

A raiyat who ordinarily cultivates his own land falls ill, or there is some accident in the family, which compells him to let out his land to a neighbour or co-villager in adhi temporarily. Such cases are on the increase, due to the loss of all rural credit, though the raiyats take the lands back in their own cultivation as soon as his difficulty is passed.

Small landholders, tenure-holders and raiyat landlords let out their nij-jote and khamar lands in barga system especially in these days of economic depression, being sure of the fact that such barga-cultivation will not confer any right on the bargadar. These are also on the increase.

Many lands are being khas purchased in execution of rent decrees, and the landlords—especially the small landlords—not being able to settle them on terms enabling them to recoup their loss to a certain extent, has now been taking to this system to secure a return from the lands.

Above all the increase in the number of landless cultivators is the main cause for the increase of barga cultivation. I should think, the system is rather a blessing for these poor men who has thereby the means of livelihood without taking to labour and without investing any very large capital.

Q. 31. The average area under barga system varies as the system varies. In reply to the foregoing question it has been shown that in certain parts of Midnapur, almost all the lands of the village are held in that system. In the eastern districts of Bengal the average also varies with the nature of the avocation of the inhabitants of a village. Where in a village the majority consists of middle class bhadraloks the percentage of the bhagchas is more than in a village composing of cultivators. The entire average I should assess at 10 to 15 per cent.; though in western Bengal the percentage of the average may be higher.

Raiyats and under-raiyats of a village having lands on a cash rent basis, also, hold lands in barga, and this is due to the area held by them on cash-rent basis being not sufficient for the family.

Q. 32. No. I am strongly of opinion that, ordinarily the rights now enjoyed by the raiyats should not be conferred on the bargadars. The raiyat had before no rights in trees, nor any transferable rights. I do not think that with the enlargement of his rights his material condition has in any way improved;—rather they have become more and more indebted; and so any improvement of rights of the bargadars will not, in my opinion, contribute more to their well being. As it has been stated in the previous answers, the barga system confers benefit more to the landless cultivators than to others; and if the

bargadars are invested with pucca right it will mean a curtailment of the right of their landlords, who will then be loath to let out their lands in barga. Limitation of the bargadar's right to possession only, gives him the means of sustenance, but the investing of him with superior right, though will increase his assets, will be the cause of his parting with the source of his subsistence for a trifling or temporary reason. A marriage in the family, or the purchase of a rowing boat, or of a good trotter pony will lead him to draw on his assets, as they have done with the raiyat,—with the result that the land will pass out of his hands, to another, under whom he will probably hold the same land as his bargadar.

I would have the barga system protected by trying to remove its abuses; and in so removing it, attempts should be made to enable the landlord of the bargadar to recoup his out of pocket expenses as far as is possible. Rules must be framed, for the manner in which the shares should be divided or apportioned, and agencies should be determined to do the apportionment. The village panchayet's help may be made useful.

There are diffeient systems of barga and rules should be so framed as the abuses of each system may be removed as far as possible.

Q. 33. I should think the system is sound where small lands are concerned, as

(1) it is of great help to the class—of landless cultivators;

(2) it involves less risk than in a cash-rent tenancy system;

(3) it ensures payment of the landlords' dues punctually;

(4) there is less chance of speculation. In a cash-rent system the tenant or cultivator speculates on a profit, whereas in a barga system the aim of the cultivator is more towards sustenance and supply of his needs, than to any profit.

(5) There is hardly any question of "interest" in a barga system; and

(6) there is more room for either of the parties, the landlord and the bargadar, to help each other, in the supply of seeds, plough and cattle, and both; there being different systems, where such supply is given by the landlord, or where it is given by the bargadars; and in such cases the share of the supplier in the yield is more than that of the other. This practice has got a special advantage. It provides another objective to improve the growth, whether it proceeds from the landlord or from the bargadar.

The benefits have been described above, but the spirit of dishonest temperament mars the beneficial results; and in the check of these abuses lies the growth of the system.

Q. 34. *Vide* answer to question 32. I do not advocate the conferring of raiyati rights to bargadars for the reasons given in my reply to question 32, one of them being what is stated in the latter part of this question. But when raiyats are being invested with larger and larger powers, there is no reason why the bargadars should also not be invested with occupancy rights; at least it will give solace to their minds, though the rights will not give them any relief in improving their material condition.

Q. 35. The proportion of produce payable in a bhagchas system differs mainly on the ground as to who supplies the seeds, ploughs and cattle,—the party, landlord or the bargadar, supplying the same getting proportionately a larger share than the others. The quantity differs also with the site where the division has to be made; if it is made at the house of the landlord,—and this is the practice usually when the seeds, etc., are supplied by the landlord,—the landlord's share is greater but when the division is done at the field or at the bargadar's house, the landlords share is smaller. The more general proportion is half and half, and I should think the division should be left to be decided by the parties according to local usage, which is being followed from ancient time.

Q. 36. The wages vary in every district and with regard to the crops grown. Labour to plough a field is less costly than labour to work and collect jute. Abundance or scarcity of crops also is a factor that determines the amount of wages, inasmuch as the law of demand and supply determines the fluctuation.

The average rate of wages has gone down a good deal in these depression days. It now ranges between annas four to annas nine.

The economic condition of bargadar is much better than that of an agricultural labourer; the former is generally assured of his sustenance, the latter being not so favourably placed. In times of scarcity, unless there has been a total destruction of crops, the bargadar has a share, which, though not sufficient, may carry him on for at least some time; whereas it is not very rare to find a labourer going without work, or to work at far less than a living wage.

As regards under-raiyats, the question is different. Their rent-liability being heavy, they are in distress even in times of plenty, and in times of scarcity they are the persons who are the hardest hit, as much as the agricultural labourers, or even worse than them.

Q. 37. The passing of many lands into the hands of non-agriculturists was the very evil that was apprehended when the unrestricted transfer was provided for in Act IV of 1928. As a matter of fact at the time when the Bill was being discussed by the Legislature, it was

one of the objections adduced by the members who were against such provision. Previous to the Act, landlords were generally opposed to any transfer in favour of a non-agriculturist, and it was not infrequent, —when in an execution proceeding land would be attached,—for the zamindar on the request of the judgment-debtor—tenant or other co-villagers of his, to refuse his assent to the sale; and thus the lands would be saved from the knock of the hammer.

The worst of motives have been imputed to the landlords, saying that the landlords would recognise any transfer who could pay them the salami. In the above cases it was not so. Also, it is widely known, that, in those days before the power of unrestricted transfer was given to the raiyats by the Act of 1928-1929, though a zamindar would not recognise a transferee unless his salami was paid, he would not disturb the transferee if his rents were paid; and in this way, hundreds of transferees used to hold the lands unmolested so long the rents were paid. The zamindar's rights were thus not disturbed, nor also the rights of the raiyats or their transferees. In cases of portion-transfer, the rulings of the High Court had secured their position, as there could be no eviction for them.

It was also then shown that the raiyat, even the best class of raiyat of the old days, had no rights of transfer, and as the zamindars had the right to choose his tenants, the right should not in equity be given to the raiyats, in limitation of the right of the zamindar, and to the prejudice of his rights secured by the pledge given by Regulation I of 1793. The legislature wanted to satisfy both parties and cut a midway. They gave the right of transfer to the raiyat but allowed to the zamindar a fixed percentage on the amount of the value paid, in lieu of his salami; and made this payment an obligatory one before the transfer deed could be registered, not to the landlord, but to the Sub-Registrar for transmission to the landlord. This, though invested the raiyat with an unrestricted right of transfer, deprived him of getting from the landlord a remission or reprieve from payment of salami, and made the breach in the relation of landlord and tenant more wide.

The Legislature recognised the principle of the landlord's power to choose his tenant, as it gave the right of pre-emption to the landlord; which saved the land at least from passing into the hands of non-agriculturists. This provision further estranged the advocates of the raiyats, though I am not yet sure that it estranged the raiyats themselves, as though it did not much matter to the raiyats, if the landlord would pre-empt the right of the transferee, the advocates nourishing the idea that it indirectly was a limitation of the unrestricted right of transfer.

The agitation having received an impetus by the grant of the power of transfer was continued more vehemently, and the fuller and more

unrestricted transfer was given by the Act of 1938; and though a saving clause forbidding or restricting the right of transfer to non-agriculturists was moved as an amendment, it received almost no support in the heat of the agitation; and in these days of depression and calamity we find the actual cultivators of the soil in a worse position than before.

I give the history of the changes for due consideration of the problem. The cultivators of the soil, who contribute to the wealth of the country, are mostly illiterate, and that is the reason of their exploitation. They need protection from outside agencies and from Government, as they cannot protect themselves for the failings of their own. They have no assets which can be indiscriminately drawn upon in times of need; and so it should have been the look-out for the more intelligent section to see that they are not being vested with rights which will induce them to deal lightly with their assets From the ancient times restriction was put upon them in the transference of their rights, though no limits were put upon their heritability. Thus the giving of the power of transfer to them, though has caused harm to the landlords entailing some financial loss, it has caused more harm to the agriculturists as a whole, in that it helps the passing away of the lands to non-agriculturist, who has no other interest in them except providing a source of speculation.

For the above reasons I am in favour of restricting transfer of agricultural holdings to agriculturists only, and this will be practicable if the following provisions are made:—

(1) Agriculturists to be defined making actual cultivators, cultivating at least 75 per cent. of their lands themselves, raiyats.

(2) Power of unrestricted transfer to agriculturists only to be given to these raiyats.

(3) Transfers to non-agriculturists to make the transferee liable to pay a salami to the landlord, and also to engage themselves in actual cultivation of 75 per cent. of their lands, failure of which will make them liable to eviction by the landlord.

(4) Right of co-sharers and contiguous cultivator-holder of lands to pre-empt to be given.

These provisions, I think, will provide a sufficient check on transfer to non-agriculturists, which has gone on increasing very largely since the passing of the Act of 1938.

Q. 38. About 10 to 12 bighas for an average family consisting of five, provided the product of the holding is the same as now. If productivity of land is increased, and if the capacity and inclination to work are increased, lesser area may do.

Q. 39. The size of the present day raiyat holding is generally uneconomic, the more so for the fall in the productivity of the land, and in the quality of the produce.

It is no doubt very true that the laws of inheritance, the increased power of raiyats enabling them to transfer and subdivide their holdings, as also the increase of population, contribute towards fragmentation of holdings.

Q. 40. Consolidation of holdings into an economic holding is desirable, but how that can be made possible is very difficult to answer. So many legal complications aggravated by the inheritance laws, both Hindu and Muhammadan, there are, that it will be next to impossible to adjust the many claims on a moderately economic holding. So far as possible, consolidation may be legally done by empowering Courts to consolidate the lands of a tenant, held under one landlord and under the same right, on his application, and on such terms as may be thought equitable by the Court, providing for payment of compensation to those whose interests may be affected. Lands of a tenant solely held by a tenant may be consolidated with those which are held ejmali with others, but before such consolidation is made, partition of the ejmali lands should be effected. Consolidation may be allowed of those lands which are held by a tenant in his direct cultivation. If this is done some advancement will be made.

There is another aspect of the matter. Consolidation once made will, under the present laws of inheritance, be of short duration. So, if consolidation is allowed, it should be allowed only if the tenant having it submits to a settlement, something of the nature prescribed in the Bengal Settled Estates Act, Act III of 1904, providing for some allowance to the co-sharers out of profits derived from the land.

Q. 41. If consolidation is made possible, special facilities should of course be given to the cultivator to increase its size not only by exchange or purchase, but also by taking settlement of new lands; provided of course the extension is made subject to the same terms as prevailing in the originally consolidated holding. In this, however, I do not advocate any special legal facilities compelling others to agree to the exchange or sale, unless special provision is made for giving compensation to those whose lands are taken or acquired for consolidation.

Q. 42. Accumulation of large areas, I do not think, will contribute to the well-being of the peasantry. It will also be followed by the same results as are intended to do away with. Subinfeudation will come in with rack-renting of under-tenants,—actual cultivators of the soil; but a separate legislation may be tried to promote agricultural

farming on co-operative principles under the supervision of the Co-operative Department. Cultivators may join together and apply to Government for permission to start a co-operative farming; and in that case when a farm is allowed and worked as such, it may be made not liable to be attached for other debts, except its own, of the cultivator-members of the farm. A co-operative farm should not be allowed if the lands are charged with any lien and they should be made indivisible. These are mere suggestions, and nothing should be done unless the question is thoroughly examined.

Q. 43. Coparcenary is detrimental to improved cultivation. By the laws of inheritance fragmentation is the inevitable result, and with fragmentation good and bad lands being intermixed, and each divided co-sharer becoming poorer than before, good cultivation becomes a rare thing with them. Consolidation of lands into an economic holding and making it indivisible may be one of the remedies, but in that case it may be improved upon by measures suggested at the end of the answer to question 40.

Q. 44. *Vide* answers to questions 40 and 43.

Q. 45. No legislation is needed for the adjustment of the collection of co-sharer landlords. The Tenancy Act has provided that an undivided share of a holding is also a holding; and the procedure of a suit by a joint landlord has also been provided for. A co-sharer landlord can get his share partitioned, if he likes, either by the Collector or by Civil Court, and can arrange for his separate collection. No more legislation seems to be necessary.

Q. 46. There is nothing in Regulation I of 1793 whereby a zamindar was precluded from enhancing the rents, or rates of rent that were payable at the time of the Permanent Settlement. Rather in Regulation VIII of 1793 the right as to the rent of the raiyat was not circumscribed.

By section XVIII of Regulation VIII of 1793 the mokararidars even, whose mokarari grants did not receive the sanction of the Supreme Government were to be dispossessed, and the settlement of the land should be made with the actual proprietor of the soil.

By sections XLIV and L of the same Regulation, even istemrardars have not held land at a fixed rent for more than 12 years were liable to be charged with increase of rent provided the proprietor had not bound himself by a deed not "to lay any increase". And in the event of the zamindari being let in farm the Government was not precluded from assessing such istemrardars "according to the general rate of the district".

By section LVI—agreements were advised, and if there was any special custom it should be entered in the patta. Failing due observance of the patta as regards species cultivated "a new engagement shall be executed".

By section LX "No actual proprietor of the land . . . . . shall cancel the patta of the khudkasht raiyat except on proof that they had been obtained by collusion; or that the rents paid by them within the last three years have been reduced below the rate of the nirikhbundi of the pargana for the purpose of equalising and correcting the assessment".

Thus, except the direction that pattas should be executed and written agreements entered upon, and that the sancity of the lease be observed, nothing was said about limiting the power of enhancement. Even where there was a patta there could be re-adjustment of assessment on a general measurement.

In section V of Regulation XLIV of 1793 it was said that on a sale for arrears of revenue the engagements entered into by the defaulting proprietor with the raiyats and others shall stand cancelled and the purchasers at the revenue sale "shall be at liberty to collect . . . . . from the raiyats and cultivators . . . whatever the former proprietor would have been entitled to demand according to the established usages and rates of the pargana or district in which such lands may be situated, had the engagement so cancelled never existed".

In the Preamble to this Regulation it was said—"It is essential that proprietor of land should have a discretionary power to . . . . . grant leases or fix the rents of their lands to induce the . . . raiyats to extend and improve the cultivation . . . ."

Here we find that enhancement could be made according to local usage or according to the district or pargana rate.

By section II of Regulation V of 1812—

"Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and the tenants and most conducive to the improvement of their estates."

Thus in new settlement the zamindars had absolute power, and it was expected that they "will exert themselves in the cultivation of their lands under the certainty that they will enjoy exclusively the fruits of their good management and industry . . . ."

As regards the nirikbundi of the pargana, it must have been that there was no such nirikbundi for every pargana, as in section LX of Regulation VIII of 1793 and in section V of Regulation XLIV of 1793 a district rate instead of a pargana rate should not have been mentioned.

There used to be a nirikbundi of a pargana, but it is doubtful whether those were the rates obtaining at the time of the Permanent Settlement.

Again to set the matter at rest in section III of Regulation V of 812 it said—

". . and the proprietors of land shall henceforward be considered competent to grant leases to . . . . . raiyats, and to receive corresponding engagement for the payment of rent . . . . . according to such form as the contracting parties may deem most convenient and most conducive to their respective interests."

In section V of Regulation V of 1812 though a pargana rate was mentioned, it was never and nowhere conveyed that this rate was to be an unalterable rate. This section V was repealed when Act X of 1859 was enacted.

The framers of the Permanent Settlement were much perturbed by the abwabs which they could not prevent by any prohibition; and they were much exercised that these taxes were varying always as the demands of Government varied. Thus in fixing the Government revenue they desired that the proprietors should enter into engagements with the raiyats to whom they must grant pattas for rents which they would not be able to vary as before, and abwabs, etc., might be consolidated with rents if they and raiyats agreed. For the reasons that are very well detailed in the analysis given in Mr. C. T. Buckland's letter referred to in the answer to question 1 above, cases of engagements and pattas were very rare. That it was the desire of Lord Cornwallis to limit or stop the impositions of abwabs, etc., and not to fix the rents forever, can be established from—

(1) Extract from Bengal Revenue Consultations, the 21st December 1789:—

Para. 13.—"The necessity of some interposition between the zamindars and their tenants is absolute; and Government interferes by establishing Regulations for the conduct of the zamindars, which they are to execute, and by delegating authority to the Collectors, to enforce their execution. If the assessment of the zamindaris were unalterably fixed, and the proprietors were left to make thei own arrangements with the raiyats, without any restrictions, injunctions, or limitations, which indeed is a result of the fundamental principle, the present confusion would never be adjusted."

Para. 14.—"This interference, though so much modified, is in fact an invasion of proprietary right, and an assumption of the character of landlord, which belongs to the zamindar; for it is equally a contradiction in terms to say that the property in the soil is vested in the

zamindar, and that we have a right to regulate the terms by which he is to let his lands to the raiyats, as it is to connect that avowal, with discretionary and arbitrary claims. If the land is the zamindar's, it will only be partially his property, whilst we prescribe the quantum which he is to collect, or the mode by which the adjustment of it is to take place between the parties concerned."

(2) Extract from the Minute of Governor-General, 3rd February, 1790:—

"Neither is prohibiting the landholder to impose new abwabs or taxes on the lands in cultivation, tantamount to saying to him, that he shall not raise the rents of his estates. The rents of an estate are not to be raised by the imposition of new abwabs or taxes on every bigha of land in cultivation; on the contrary, they will in the end, be lowered by such impositions; for when the rate of assessment becomes so oppressive as not to leave the raiyat a sufficient share of the produce for the maintenance of his family, and the expenses of cultivation, he must at length desert the land. No zamindar claims a right to impose new taxes on the land in cultivation; although it is obvious that they have clandestinely levied them, when pressed to answer demands upon themselves; and that these taxes have, from various causes, been perpetuated to the ultimate detriment of the proprietor who imposed them.

"The rents of an estate can only be raised, by including the raiyats to cultivate the more valuable articles of produce, and to clear the extensive tracts of waste land, which are to be found in almost every zamindari in Bengal. It requires no local knowledge of the revenues of this country, to decide, whether fixing the assessment, or leaving it liable to future increase, as the discretion of government or its officers, will afford the greatest encouragement to the landholder to have recourse to these means, for the improvement of his estate.

I should think that ascertainment of the niriknama of the Permanent Settlement days having been very difficult to get at, the framers of the tenancy laws of the later days dropped that enigmatic expression and provided for reference to be made to the "rates obtaining for similar classes of lands in the vicinity".

As regards rent or rate of rent Colebrooke writes as below in pages 36 and 37 of his famous Essay:—

"The rates ought to be uniform as far as circumstances permit, and the rents of all tenants, within the same village or district, should be regulated by one table. As the quality of the soil, however, cannot be uniform, the rates vary, not only according to the articles of produce, and number of crops gathered off the same field within the year, but according to the soil and situation; such as sandy; exposed to

inundation or to drought; annually overflowed; adjoining to, or remote from, the village; and so forth. All these variations, whether by the produce or soil, constitute the rates which compose the table. Other diversities are admitted for the subdivisions of districts and of villages. But in some places, there is no variation according to soil and produce; on the contrary, one uniform rate is applied to the whole land which is occupied by the same tenant. A patta for an adjustment after cultivation by a general table need not specify the rates. It need only contain the term of the lease, the reservation of established taxes, the measure to be used for the land, an obligation to pay all additional cesses which shall be universally imposed, and the periods of payment. The term, specified in a lease of this nature, is commonly the year for which it is granted. A raiyat has nevertheless a title of occupancy, in right of which he may retain his land, so long as he continue to pay the rent in conformity with the custom of the country, or with his own particular engagement."

It must no doubt be said that by extension of cultivation the increase in the zamindar's income or profits was mainly obtained, rather than by the enhancement of rents; and as it has been proved by Mr. Robert Knight in his introduction to Colebrooke's Essay, the enhancements obtained have nowhere been near the adequate.

Q. 47. *Vide* answer to question 46 above.

"Fixity of rent forever" for the raiyats was never intended; but what was intended was that instead of the varying nature of rent, and instead of realisation of abwabs and sayer collection, the parties should enter into engagements, whereby either a rent should be fixed leaving to the latter "the option to cultivate whatever species of produce may appear to them likely to yield the largest profits", or where "it is the established custom to vary the patta for lands according to the articles produced thereon", and where the zamindars and raiyats "shall prefer an adherence to the custom, the engagements entered into between them are to specify the quantity of land, species of produce, rate of rent, and amount thereof with the term of the lease . . ." (*vide* section LVI of Regulation VIII of 1793). Here also no fixity of rent was intended and it was said, that in such engagements term should be provided.

Section LX of Regulation VIII of 1793 provides that such pattas as above of the khudkasht raiyats could not be cancelled except for special reasons which have been discussed in my answer to the foregoing question. To be "fixed forever", there must be some declaration in the Regulations to that effect, and when there are none, it cannot be presumed; and there are no grounds even for such presumption.

I have shown in my answer to question 1 that the khudkasht tenants would not even accept the position of fixity for a term as they thought they were better off without it.

The same question was discussed before the Rent Law Commission of 1880, but the Commission came to the conclusion that fixity could not be proved.

Q. 48. I have in reply to the foregoing questions shown that fixity of rent of even khudkasht raiyats, not to speak of all classes of raiyats does not find support in (*a*) Regulation I of 1793, nor in (*b*) any other Regulation that I know of, nor in (*c*) any Act. The rulings quoted below are against such fixity also:—

13 Moore's Indian Appeals, page 248.

12 Bengal Law Reports, page 215.

In the first part of section XLIX of Regulation VIII of 1793, referred to in my reply to the foregoing questions, it is said:—

"It is to be understood, however, that istemrardars (mokararidars) of the nature of those described in section XVIII, who have held their land at a fixed rent for more than 12 years are not liable to be assessed with any increase, ... should he engage for his own lands."

This special class of istemrardars or mokararidars were exempted from all increase, "should he engage for his own lands". With the exception of this class, all others were liable to pay an increase.

(*d*) I should think that the section 50 (1) was derived from the apathy of the zamindars in not asserting the right to increase in the rent since the Permanent Settlement or for 20 years.

The 20 years presumption comes under clause (2), and the presumption is that if no change is shown to have occurred in the rent during 20 years before the institution of the suit for enhancement, it shall be presumed "until the contrary is shown" that the tenant held the land at that rent or rate of rent since the Permanent Settlement.

As regards this presumption of fixity of rent the ruling cited in 42 C.W.N. 304 may be referred to. "The mere fact of payment of rent at a uniform rate, in the absence of other circumstances may not raise any presumption of fixity of rent or of permanency."

Also 85 I.C. 636:—

"The mere fact that a tenancy has been held by the predecessor-in-interest of the tenants for several generations, and that the rent has been uniform for over 50 years is not sufficient in law . . . . . to show that the rent was fixed forever or that the tenancy was a permanent one."

Section 6 of the Tenancy Act admits of proof to show that a permanent tenure is liable to enhancement. It is based on section 51 (1) of Regulation VIII of 1793 which section was repealed.

(*e*) The general ground admits of a presumption which cannot be supported by law, when there is no specific mention of such a provision of fixity of the rents of the raiyats in general; rather the Regulations as I have said in my answers to the previous questions are against such a presumption.

Q. 49. The hypothesis that the "rent" should never be increased is different from the suggestions of questions 46 and 47, where "rates of rent" are considered. Rents had never been intended to be fixed for ever at the time of the Permanent Settlement. I have shown above that there was no intention to fix the rents forever.

Rights have been adjusted since the Permanent Settlement by successive enhancements and by the decision of Courts. Now no principle of jurisprudence will sanction any law declaring a rent to be fixed, if it is, under the existing law or under a decree of Court, unfixed. If reduction of rent is intended, there is the section 112 of the Bengal Tenancy Act which can deal with the situation in cases of general hardship.

With the lapse of over 150 years it will be idle to contemplate even on going to the Permanent Settlement figures. Sufficient material will not be available, and it will be a very difficult thing to establish that such and such a tenant is a successor-in-interest of a tenant of the Permanent Settlement days. The difficulty is accentuated by the fact that there are few families of zamindars existing who can trace their descent from the time of Permanent Settlement; and in the cases even of those families existing since that time, it will be difficult to produce papers of that period which can establish a connection of a Permanent Settlement tenant with that of a present tenant. Tenancies have disintegrated and changed hands, with the change in the proprietors. Small landlords and capitalists have come in the places of old zamindars, and it has just been the case with tenants also.

Then the eastern districts of Bengal, which were jungle and marshy lands at the time of the Permanent Settlement, were reclaimed after the settlement, and so there could not be a tenant there at that time. During the cadastral survey and settlement of Mymensingh, there were many status cases, in the Tagore Raj Estate, and not one tenancy even could be established as continuing from the Permanent Settlement. I have never come across any engagement or patta of the Permanent Settlement times.

As regards the last question no grievances are known, and when they come to be known, we shall know what answers to give.

Q. 50. The hypothesis is wrong. It was never the intention of the framers of the Permanent Settlement that the rights of all tenants, including paikasht tenants, and new settlement-holders, should never be altered. If it is contended that it was the intention then the raiyats again cannot claim reduction of rent nor also the rights and privileges since heaped upon them.

There had been two Commissions—one about the year 1830-32 and one in the year 1880; and both the Commissions took no notice of such a suggestion; nor ever such a suggestion could be advanced in reason.

Q. 51. I have said above that there was no restriction on the zamindar in the matter of settling new lands.

(*Vide* also replies to questions 46 to 48).

Q. 52. I should think that, with regard to the rents to be paid by the actual cultivators of the soil, a standard rate should be determined on the value of the produce of a land less the cost of cultivation leaving a margin of profit to the cultivator. In this way system 2 appears to me to be the best system; but the standard rate should undergo revision from time to time, as the price of the produce varies.

Rents fixed on competition is not an ideal system though it may appear to be the best on paper. Competition-bids, especially amongst a class of people not far advanced in mind and knowledge, will often raise the rate of rent to such a figure as the land may be unable to bear. For these reasons this auction on rate of rent is not allowed in many estates; but where there is keen rivalry amongst candidates, auction on the amount of nazar or salami, with the rate of rent being reserved, is held for the settlement of the land. Again in reserving the rate of rent I would advocate the principle of leaving a large percentage of profit to the cultivators at the first settlement. This principle is good in the settlement of a large area of char and waste lands. In settlements of jungle and waste lands with the aboriginals, a nominal selami and a very low rate of rent, Re. 1-8 an acre even, are demanded.

Thus, in determining the rate of rent there cannot be a fixed uniform standard for all times for all classes of lands. A standard fixed to-day is inapplicable to-morrow due to improvement or deterioration of land. I have experience of lands having been deteriorated by upheaval due to earthquake, and also by deposit of sands, and in these cases we had to reduce the rate of rent considerably in settlement of lands made khas. I have had also experience where a land was abandoned or surrendered by a tenant, and in settling the same, a great reduction had to be allowed at the time of settling those lands with others. The value of crops rises and falls every now and then and so there should be no fixed rate of rent for all times to come.

The above remarks apply to settlements of khas lands with the actual tillers of the soil. Subinfeudation has been a feature of the land system of Bengal, and the rents payable by each grade of tenant should be considered with the rent payable by the tillers of the soil. The average rent now payable to the zamindars is very low, Rs. 3 per acre, and it is much less in certain estates. This rate is much less than what is paid by a tiller of the soil to the intermediate tenant, who must have a profit, in the existing state of things.

Q. 53. It has been said in answer to question 46 above that the pargana rates where they were fixed at the time of the Permanent Settlement were not meant to be unalterable in future. Where; however, there was a pargana rate it was based on the value of the produce of the land especially with reference to the particular crops grown. Thus said Lord Cornwallis in his Minute of February, 1790:—

"The value of the produce of the land . . . . is a standard which can always be reverted to by both parties, for fixing equitable rates."

Thus the mulberry land or tobacco land was rated more than rice land. I have seen many cases, however, the tenants were allowed "hazat", temporary reduction of rent, and the "talabi jama" (jama that was payable) was much less than the kāt jama, *i.e.*, (the jama at the standard rate). The zamindar's alleged apathy and timidity to enhance the rents never brought up the rate of rent to the standard rate, and enhancements were generally secured without following a fixed standard. "Prevailing rate" was introduced in Act X of 1859, but not having been defined, several interpretations were given, and so in the Act VIII of 1885 the word came to be defined in section 31B of that Act.

Thus the old practice of assessment on the value of the produce was lost sight of. That was also due to the fact that new and more profitable crops began to be grown, and enhancement was thus limited to the class of land and productivity. This is also becoming rare, and when there is an increase or decrease in area, proportionate increase or abatement is allowed generally by the Settlement Courts in section 105 cases. In the new settlements the zamindars still assess the land sometimes on its class and productivity and class. They are never lump rents.

There are few old tenancies now existing, which have the assessments of rent made on the principle of the value of the produce of land with reference to any crop grown. Generally the tenancies of the present days are found to have been assessed on rates assessed on the quality or class of lands; and in the later day tenancies the assessment is made at the highest of the rates now prevailing in a mauza. The custom now is the prevailing rate and not a rate fixed on productivity

with reference to the crop grown. Now a mulberry or a tobacco land or a sugarcane, or a jute land will be found to be paying the same rate as that of a rice land.

I cannot say that it is the practice that rates "differ greatly for lands of similar value in almost every village and estate", as that has not been my experience. But there is difference, and sometimes, the reasons are many. An influential raiyat or a raiyat with a large area has been evading enhancements, whereas a small raiyat has been paying the enhancements oftener than his neighbour; and it is not also infrequent that the zamindar has been lenient to a particular tenant either by choice or by force of circumstances, so that his rent is lower than that of a less favoured tenant; and as this has been going on for a long time variations in rates must needs be found. Again, in a particular estate in a village, the supervision being stricter than in the other estate, the rates of one estate may be more than the rates for the other estate.

Rates of rent are thus generally not dependent now, on value of the produce of land or on the class of land, but on prevailing rates, and this has been due to practice as well as legal enactments.

I have no experience of the rates of Government estates.

Q. 54. *Vide* answer to question 53.

Q. 55. If only the humanitarian point of view is looked upon and not the exigencies of the State, readjustment of rents must be made, but there can be no uniform basis for all parts of a district even, not to speak of all parts of the province. Conditions of locality differ for many reasons, and thus there can be no uniform rate for all times. In the old days the part of the country which was populous and wealthy, is now barren and devoid of population, though I do not think the productivity of land has weakened except through its lying fallow for a long time. Circumstances and situation of a land affects its value, and naturally it will affect the rate of rent. For reclamation of jungles and waste lands specially low rates will be necessary. Thus the rates cannot be uniform everywhere.

I don't think existing rents can be revised unless all what has happened in law since the British connection was established in the land is obliterated and revolutionised, and if that is possible to be done, it may be done by only a *fiat* issued from the Government.

Q. 56. On a humanitarian point of view it should be as low as possible, if, of course, landlords and all middlemen are done away with—; but if they are to remain, they must have a living even after payment of the existing amounts of revenue, and as in some estates the

incidence of such revenue is very heavy, one-fourth of the value of produce as in the days of Emperor Akbar, or at least one-sixth, as in the days of Mánu, should be prescribed as payable.

Q. 57. Rent must not be fixed in perpetuity—but it should be revised every 10 years, accordingly as there is a change in the prices of crops ordinarily grown in the locality. In the Bengal Tenancy Act there is the provision of comparison of average value of two decennial periods.

Q. 58. I do not see how it will at all be practicable to determine the income of an agriculturist; and the average income, after meeting all expenditure, not being very high, cases of exemption will be more than the taxable cases. Moreover it does not come to be an expedient proposal, in view of the huge costs that will follow such a measure, if introduced.

Q. 59. The only defect in the Bengal Tenancy Act that struck me is that where there is no definite engagement providing for payment of a "money rent", there can be no enhancement under section 30 (*b*) of the Tenancy Act, unless there has been a rise in the price of "staple food crops". Consideration of the rise in the price of such crops as tobacco, cotton, jute, etc., has been banned. I should think that the rise in the prices of all crops grown in a locality should be the criterion. I should so suggest that the rises in the prices of all crops grown in the locality or on the land in question, instead of the prices of "staple food crops" only, should be made a ground of enhancement. In section 48D of the Act the value of all produce of the land is to be considered in enhancing the rent of an under-raiyat.

Q. 60. For an improvement in the productive powers due to "fluvial action", the landlord does as much as the tenant in getting it about. So it does not appear to be reasonable, that one will reap the benefit and the other not.

The "State" limited its right to the benefits arising from the land by fixing the revenue at a high figure, and it was expressly declared that the benefits arising from the lands will be the portion of the zamindars.

Q. 61. No, as there appears no reason for such a principle. Enhancements for rise and abatement for fall are natural corollaries and for giving the stimulus to improvement of agriculture. Low rentals can provide no incentive to improve agriculture.

Q. 62. I don't know if the underlying principle in the question is the suggestion that when the income from the land of a tenant is not sufficient to supply the required consumption of his family he should be exempted from payment of rent. If that is not so, the question does not follow.

Q. 63. The premise does not appear to me to be correct. Consideration of prevailing rates involves the consideration of low as well as of high rates, and the majority rate of a village is the prevailing rate. If provision is made for reduction of rents on the ground of prevailing rate, then, firstly, it will tend to reduce the rate of rent obtaining in the village, and secondly, sanctity of contracts in new settlements would be gone.

There being no provision for enhancements on the ground of improvements made at the expense of the raiyat, the raiyat enjoys the results of his improvements without any addition to his charge, and so there cannot be any reason why any improvement should lower the rate of rent or in the end make it rent-free.

Salami must not be taken into the consideration at all. The payment of salami is a condition precedent of the contract whereby the landlords part with the possession of land and let the raiyat enjoy it on payment of rent.

Q. 64. There appears to be hardly any reason why the sanctity of contract should be disturbed or interfered with. If such attempts are started, there is no knowing where they will end. The suggestion to strike at the root of a contractual obligation— an obligation not secured by coercion, undue influence or duress—does not appear to be supported by any consideration. Inviolability of a contract duly entered into is not to be disturbed in the principle of jurisprudence, and in view of the several safeguards for the protection of the raiyats, provided in the tenancy laws, such a proposal is not called for.

Thus a rent secured legally by a new settlement should not be interfered with, when there is an engagement, whether reduced into writing and duly registered, or not, unless under section 38 of the Bengal Tenancy Act.

There are many provisions with which the question of enhancement of rents of raiyats is guarded, and there is also a special provision under section 112 of the Bengal Tenancy Act to be called into operation when there is a case of general hardship; and the average rate of rent paid to the zamindar being very low, the provision of another section giving powers to the Government for limiting rents secured by new settlement is not called for. No case has been made out for such a measure.

Q. 65. Generally speaking no defects appear on the face of it in the Chapter X of the Bengal Tenancy Act unless it is in the working. The chapter was intended to safeguard the rights of the raiyats, but the procedure followed by the officers is generally so much more in the interest of the tenants than what were contemplated by the legislature, that in some cases the zamindars are drawn to the Civil Courts for protection. In the status cases instituted by the Tagore Raj at

Mymensingh, the zamindar had to fight every inch of the ground, and had to incur a great deal of expenses, and the judgments of the Assistant Settlement Officer were reversed finally by the Civil Courts in every case; and because of the pending status cases, the section 105 cases were postponed sine die and were not taken up for hearing till about three to four years after their institution. If the provisions of Chapter X are properly worked, of course they are for the benefit of both tenants and the landlords, and there is nothing to object to. This is with reference to the permanently settled estates.

I have only one suggestion to make, and that is, that the section 105 cases may be allowed to be filed, as before, in groups, the mauza being taken as the unit, and also heard as such. The procedure now followed is that for each khatian there must be a separate case, and vakalatnamas, and necessary petitions must be filed in each such case, with the result that the cost of the section 105 cases has been made heavier than before.

As regards temporarily settled estates, the settlement of rent roll is done generally with an eye to increase the rent roll, and then to increase the amount of revenue to be paid by the settlement holder. Greatest injustice is done to the tenureholders, and the zamindars whose rent, and revenue are fixed at 70 per cent. of the valuation of the tenure or the estate, which valuation is calculated on the hastabood of the tenure or the estate, plus the value of the khas lands at rates dictated from above. This works very hard on both the tenureholders and zamindars, and it is not infrequent that the total collection of the tenureholder or the zamindar falls far short of the rent or revenue to be paid by them. Also, though there is the provision in the Settlement Manual to allow a Permanent Settlement, giving an allowance of 40 per cent. to 50 per cent. for collection and profit, this provision is rarely acted upon. In my experience I have never come across a single case, where the revenue has not been increased even during the time of economic depression and fall in prices of food crops, when the zamindars will not dare ask for enhancement of the rents of his raiyats, and the Courts even will not grant the same.

Q. 66. I do not know of any cases of enhancements granted being unfair to the raiyats, but rather they have sometimes been inadequate for landlords.

Q. 67. *Vide* answer to question 65.

Q. 68. There are several temporarily settled estates in the district of Mymensingh which previous to the last Revisional Settlement in 1936 were under settlement with Maharaja Tagore. At the Revisional Settlement the revenue of each of the following States was increased, and though it was pointed out that since the economic depression started, the average collection during the five years immediately before

the Revisional Settlement was below even the amount of the previous revenue, the estate of the Maharaja Bahadur, in view of the heavy outstanding arrears, and in expectation of the depression passing away, would continue to hold the tauzis at the same amount of revenue as before, the petition was rejected, and as none would take settlement at the increased amount of revenue, they had to be kept in khas collection.

No. of tauzi.	Previous revenue.	Increased revenue appearing in the notice.	Revenue offered by the estate.
8560	165	175	165
8561	127	142	127
8562	26	30	26
8564	426	500	426
8569	36	37	36
8570	392	404	393
8574	347	408	347
13789	1310	2276	1310

In the following tauzis the estate offered adequate revenue in view of the demand recorded in settlement papers, but no consideration was made of the representation by the estate, and though it was shown that the average of collection of the preceeding five years was much below the amount of the previous revenue, the petition was rejected.

No. of tauzi.	Previous revenue.	Increased revenue appearing in the notice.	Revenue offered by the estate.
8566	80	81	75
8571	109	90	70
8576	173	156	131
8567	731	770	696

In the following tauzis, though the average collection was less than the amount of the previous revenue, still the estate offered increased revenue according to the demand recorded in the settlement papers, but as more increased revenue was demanded the estate had to refuse the settlement.

No. of tauzi.	Previous revenue.	Increased revenue appearing in the notice.	Revenue offered by the estate.
8556	299	361	326
8558	538	679	671
8572	258	477	405
8575	214	240	227
8589	211	275	225

These assessments appeared to be unfair, and so the estate had to refuse the settlement. These tauzis are now held direct, and it is not known how collection has been progressing.

Q. 69. *Vide* answers to questions 65 and 68. It was not a good policy to go on with the Revisional Settlement when the prices had not yet reached the normal level.

Q. 70. I have no experience of working in the khas mahals.

Q. 71. In my long experience in the management of a permanently settled estate, I have never heard of the declaration of famine, and the resultant remission of revenue granted to the proprietor of the estate. There should be no difficulty to allow the same rate of remission to his tenants as the zamindar would get from the Government. In 1934-35, when in the district of Bogra, the Government allowed a remission of 25 per cent. of the cess demand, the Tagore Estate also allowed the same remission to its tenants, and no complaint was raised from a single tenant that such remission had not been granted to him.

I have no experience of any khas mahal estate working.

Q. 72. The yield or cost vary with the quality of land. The average yield and cost of chair and high lands in jute growing districts are given below:—

	Char. Yield per acre.	High lands. Yield per acre.
	Mds.	Mds.
Jute	14	15
Paddy	12 to 15	..
Sugarcane	..	90

The yield of paddy in barind tracts and other one-yield lands of Murshidabad is in average about 25 to 30 maunds per acre.

The cost of cultivation of jute by hired labour is about Rs. 50 per acre. For the cultivator who grows the crop himself, the cost is nominal, if labour is not taken into consideration. Generally they store their seed, and have got to purchase it rarely.

Sugarcane crop cultivation is a new venture in the estate lands in Mymensingh and eastern part of Rangpur, and the cultivation is done not at all extensively. The yield of the crop in the estate lands is about 90 maunds per acre, and the cost of cultivation, at the first year is about Rs. 144 per acre and Rs. 126 in subsequent years.

Q. 73. The productivity of land has decreased as it will be evidenced by the low outtturn of jute, as well as in the fall of its class. The

reason of this lies in the fact that the use of manure is very small. Cow-dung manure is used, but that not adequately. Rest is hardly given to a plot of land after cultivation of two or three years. In localities which are served by rivers there are no measures to prevent inundation, and in localities which are not served by rivers, there are no adequate measures for irrigation. Generally the seed used is the seed collected from last year's product, and the product being impoverished, the yield naturally falls. The Government sells seeds, but cultivators would not buy them extensively due to apathy, conservatism and also partly due to the distance of the places from where the Government seeds are available. Beyond the agricultural officers advocating the purchase of improved seeds, and other improved methods of agriculture—and that is also done not in the interior—no free supply of seeds, manures, etc., are given by Government, though in times of scarcity free supply of seed is given but not very extensively. Generally speaking the conservatism, coupled with difficulties of communication are the chief causes which have contributed to the decrease in productivity of the soil.

Q. 74. In the several Acts the legislature seems to have been very anxious to recoup the loans advanced, or costs incurred. The rigours of realisation deter the cultivators from taking advantage; and there is so much delay in getting orders that both the landlords and the tenants are not enthusiastic over the measures provided. Besides, there being no publicity given for the measures, ignorance is another reason why advantage has not been taken of these Acts. Subdivisional Officers should be instructed to give the initiative to the people.

Q. 75. I have no knowledge.

Q. 76. I have no knowledge.

Q. 77. The general policy of Government, and not the land system, has throughout been apathetic, and so has contributed to the uneconomic condition of the cultivators of the soil. It gave no impetus to agriculture. That the subinfeudation was taking a different turn from what it was at the time of the Permanent Settlement, and that the lowest grade of tenants—the cultivators of the soil—were being more heavily taxed, was taken no notice of. Since the Act X of 1859 the changes in the tenancy law creating occupancy raiyats, and investing them with more and more powers, at the same time limiting the facilities of the zamindars for rent realisation, and of others in the realisation of their dues, made the raiyats grow negligent about cultivation and the improvement of the crops grown. They grew callous about their debts. Their low rents and the heavy rents of the under-raiyats gave an impetus to subinfeudation. Then the power of unrestricted transfer and of subdivision, the passing of the Agricultural Debtors Act made them grow bolder, and more negligent about payment of their rents and other financial obligations. The working

of the Agricultural Debtors Act, and the delay in the disposal of the cases before the Debt Boards further aggravated the situation—; and the constitution of the Boards, by which the more intelligent section of the people were neglected and the debtors themselves were made the arbiters of the fate of the creditors, completed the rout. The result of all these has been that the zamindars have been reduced, village moneylenders, who used to keep the tenants alive during the months of cultivation, left their avocations, and rural credit was thus strangled. The indebtedness of the cultivators thus increased partly through their negligence to pay when they could pay. Loan offices which came after the village moneylending system was killed, and which engulfed the savings of the rural people, have lost their existence, and through this the cultivators became poorer. The Government has been indifferent to all these changes. It has always been led by agitation, and has yielded to the vociferous demands of the raiyat-landlords in the name of the tillers of the soil. As said in the answer to a previous question, though the Tenancy Act of 1938 was professedly intended for the betterment of the interests of the actual tillers of the soil, the raiyat-landlords and other intermediate tenants got most of the benefits.

Besides all the above, the Government has afforded no marketing facilities, fixed no minimum price for their main crop of jute, and, in spite of the great fall in the prices thereof, has not taken any care to lower the amount of its quantum of the export duty.

Want of proper education has been another contributing cause. If things are wanted to be improved, the following appears to be necessary:—

(1) Rural credit has got to be revived partially by reintroducing the village moneylending system with necessary safeguards, and by other measures.

(2) Acts should be so amended as will make the tenants respect their financial obligations.

(3) Supply of improved seeds and manure more extensively than before.

(4) Fixing a minimum price of jute, and affording marketing facilities.

(5) Provision of pasture lands by compelling the Union Boards to acquire the said lands and maintaining them, the tenants getting free pasturage rights therein. It should be stated here that, however willing the landlords may be to keep khas lands for pasturage, they cannot long be kept as such, due to clandestine encroachment, and for keen rivalry amongst the tenants to get settlement thereof.

These appear to me the very important items required, and there are many other necessities to be provided for, to improve the condition of agriculture.

Q. 78. It is impossible to state with any approach to accuracy the average income of a cultivating raiyat. The report of the Banking Enquiry Committee which went into this question may be referred to.

In western Mymensingh, where the main crop is jute, the average income of a family depending on about one and a half acre of land is about Rs. 200 per annum, with an expenditure of about Rs. 180 per annum. This is for actual tillers of the soil. Income from other sources is not included in the income figure, nor is the expenditure due to sickness and other extraneous causes also included.

Q. 79. The present system is adequate. Maintenance, even where it is done by Government agencies, being not taken by Civil Courts as conclusive evidence, the raiyat and other tenants should be compelled by law to notify the landlords, of inheritance and transfers, and persons failing to notify should be effectively barred as having acquired any right to be sued. The zamindars may then be compelled to mutations in his books, and patwari may be re-introduced to see that the records are properly maintained—, and to keep notes of all details of agriculture in a village, kanungoes may supervise the work of the patwaris.

I have no knowledge of the details of the system prevailing in the United Provinces.

Q. 80. *Vide* the answer to the latter part of the question 77.

Before any of the suggested means is adopted, rural credit must be restored giving a cultivator the power to withstanding the temptation to part with the crop at an unprofitable price. He is in the hands now of the speculator to whose price he has to submit, as he has never any reserve to fall back upon.

The suggestion (*i*) is a measure that is needed; but consolidation of holdings, or farming on co-operative afford this means a speedy result.

Suggestion (*ii*) is very good but it does not occur to me how it will be possible to be done in places far away in the interior where communication is exceedingly difficult.

Marketing facilities, I have remarked upon in my answer to question 77; and about cattle insurance I have doubts about its contribution much towards increasing the resources of the cultivators. Insurance is a thing not much understood by them, and the raiyats must first be educated about it before it becomes a success.

Q. 81. I have no knowledge of statistics, but it can be said that the pressure of population is a cause of the poverty of the cultivators.

Q. 82. Establishment of the industrial factories may relieve some pressure, but it being an agricultural country, improvement of agriculture should be the chief objective.

Q. 83. (1) Tenancy legislation should be made more stable, and realisation of debts should be more effective.

(2) Debt settlements should be made far more through amicable settlements, and disinterested parties should be asked to act as the mediator. At any rate the present Agricultural Debtors Act is not a very expedient measure. The principle should be that the creditors must not be coerced, but, rather their co-operation should be sought for, in coming to a settlement. Village moneylending should be encouraged, and, where feasible, agricultural banks--State-aided—should be opened.

I do not know of any organisation existing in the villages, which have for its object the improvement of agricultural credit.

In this connection I beg to observe that taxation should be lighter and more directed towards establishment of rural credit. Primary education should be paid for by Government and not by the cultivators themselves.

Q. 84. The crusade against the village moneylending system started sometime ago. Its good points were overlooked, and instead of curing its abuses, the system was rooted out. The village mahajans were in the habit of keeping the raiyats going and assisting them in times of need. During three or four months of the year usually when there are no crops, but still cultivation has got to be done, and, especially in times of scarcity, it was they who advanced money and grains, which did not so much reduce the cultivators to landless cultivators and labourers. Though indeed their rates of interest were higher, still, being co-villagers, there were cases, where large remissions of interest were not scarce with them. As a result of the crusade, direct and indirect, the system came to be stifled and then killed. It was then loan offices grew up like mushrooms, almost one in a small group of villages. Their rates of interest were higher than that of the village mahajans, though the dividend paid to their constituents was also very high. With scarcity coming, this system could not live and the loan offices ceased to exist with the deposits of the constituents. The countryside thus became poorer by this system. Then Debtors' Act came which absolutely killed all rural credit. The rural indebtedness became more acute, and now there are no men, nor any organisations in the village to help the raiyats in their distress and money scarcity. Now one can hardly find a straight-forward

cultivator in the village ready to acknowledge his liability and anxious to discharge his debts. The inclination to be square with his financier is gone and evasions have now been the general instinct.

There being hardly any village mahajans now to deal with, the question, I submit, does not arise.

Q. 85. I do not think the co-operative credit societies has tackled to any appreciable extent the credit problem of the agriculturists. I am not aware of the details of the working of the co-operative banks, but their relations with the agriculturists have only been the giving of loans, which the agriculturists are not caring to repay, and their lands are being bought by the banks in liquidation of the loan. Thus the banks have been tenants of large areas, and, not being agriculturists, they have become landlords, with the same predicament of other landlords of the country. Though the interest charged by the banks has never been high, still, in my opinion, they failed in their object in not being able to instil into the minds of the cultivators the habit of payment of their debts and other financial obligations. The distant situation of the co-operative banks has been the reason why they gave place to private loan officers referred to in answer to question 84 above; and so while the loan offices situated nearby in the village grew, the co-operative banks fell off in popularity.

Q. 86. In the answers to questions 83 and 84 and other questions I have commented upon the Agricultural Debtors Act and the Debt Settlement Boards. The Act is not a well-drafted Act, and it cannot adequately serve the purpose of benefiting the agriculturists unless their credit is fully revived, and their financial credit is established. With the measure providing for gradual reduction of debt, there should be measures taken, for improvement in cultivation and for affording facilities in the proper marketing of their produce. If both these measures go hand in hand then some good results may be expected.

As regards the working of the Act, the following strikes me mostly—

(1) The constitution of the Boards and the election of its President. At present the President and the members come from the tenant class, and as now-a-days they are almost all indebted and are in arrears, cannot for want of proper education maintain a neutral attitude. I should think no one who is in arrears himself be made a member—far less a President. The post of President should be given to influential persons and should carry a decent salary.

(2) The Special Officer and other supervising officers should be neutral, and should be directed to see that apparent relief of an agriculturist is not made the only criterion. They must be instructed

to direct their efforts mainly to instil in the minds of the debtors the inclination to pay off their debts even at a sacrifice. It is not uncommon that now they are advised first to look to satisfaction of their wants and then to pay, if they can, and with the aim in view to afford apparent relief the awards are made.

(3) It should be made a rule that, with the application, the instalment of current rent that has fallen due and one-tenth of the actual amount of arrears of rent, should be deposited. The practice now prevailing is, that the debtor now files the application and stops payment of his debts, with the result that when the award is passed, the arrears have increased and the indebtedness is sometimes past any relief. It has not been infrequent that the land is transferred after the filing of the application, or the tenant leaves the place, and the zemindar is deprived of all relief for the realisation of his dues.

(This principle is followed in Bihar.)

(4) The instalments provided in the awards must not be less than a quarter or fifth of the dues.

(5) The payment of the court fee for the final award must be made payable with the application. It has been my experience to witness cases being delayed for over six months due to non-payment of the fee prescribed for passing the final award.

(6) It is the provision of the law that failing the payment of an instalment of current rent subsequent to the period covered by the application or the award, the creditor or the zamindar may institute a suit for the recovery of the entire debt. The Act is silent about the court fees to be paid for such a suit. Suppose there is a decree for the dues of three years, the execution of which decree has been suspended by an application being filed under the Agricultural Debtors Act. The Board takes a year to pass an award, and so, by the time the award is passed, four years' arrears have accumulated. In the fifth year neither the dues of the fourth year (not covered by the award), nor any instalment of the dues of the fifth year is paid; and so the zamindar has to go to Court. In such cases the lawyers advise the payment of court fees for the three years' dues which are covered by the decree that had been stayed. This double payment of court fees is not just. It should be provided for in the Act that fees once paid need not be paid again.

(7) "Agriculturist" should be defined to include actual cultivators of the soil, with a change being made in the Bengal Tenancy Act, in the definition of the word "raiyat". Raiyat should be the cultivator, who cultivates himself, or by hired labour, not less three-fourth of the lands of his tenancy. There appears to be no need to afford relief to those who are not actual cultivators.

(8) It should be made the rule that there should be one Board to serve at least two chowkidari unions in the minimum, and no application should be entertained in a Board unless the tenancy of the tenant is situated within its jurisdiction. In special cases the Special Officer may transfer cases from one Board to another either of his own motion, or on an application being filed before him.

(9) Interest on rent is totally cut down at present, and costs of suit are also cut down at times. Costs must not be cut down in any event, unless agreed to by the landlord; and, about interest, the Boards should be asked to see that the relief granted by the entire remission of interest is not abused. So I propose that some interest should be included in the award to serve the purpose of penalty which would check the tendency of non-payment.

(10) The zamindars should be encouraged in filing applications before the Board. It is provided in the Act that if the tenant does not appear, the application of the zamindar should be rejected. I do not see why this should be so, and the zamindar should be deprived totally from the facilities for this means of realisation of his dues.

(11) Zamindar or his agents, where possible, should be made Presidents of the Boards. There does not appear to be any reason why the zamindars should be so banned or convicted, when the tenants are indulged to such an extent. Rather for the cultivation of amicable relations between the zamindar and his tenant, the Presidents of the Boards should before giving an award try their level best to make the parties come to a compromise; and if compromise is made conditional on a payment they should so state in the award.

(12) Landlord's cost of the case should always be awarded.

In clause (1) above, I have suggested payment of a salary to the Presidents. This should be done and the costs should be met by the Government. Government should make some sacrifice with others, in improving the lot of the cultivators, who supply food to the country; and there is no reason why the costs shuld be totally the burden of others, while it has got a duty to perform with respect to the cultivators.

In reference to this question, it should be considered why there should be any settlement at all, or instalments given for arrears of cesses. The zamindars are charged with the duty of collection thereof without any collection charge, the cesses are realised in full from the zamindars who are left to their own devices to collect the same from the tenants, so much as they are payable. If this is to be the situation, has the Government any just reason, either to deter, or to defer the collection of cesses from those who are liable to pay the same? In thrusting the instalments on the zamindars, from whom the cesses are rigorously realised, like instalments of the same character should be provided for in the payment by the zamindars of their dues.

The question, though complicated, should be considered. There is no reason why the zamindar alone should be sacrificed. In such cases, I should think, the beneficiaries of the cesses should be asked to collect their own dues, and let the zamindars be relieved from the thankless and unprofitable task of collection.

Q. 87. Agricultural banks financed by Government may be successful in reviving to a great extent the rural credit. Lest the banks are subjected to frauds they should work in co-operation with the zamindar's agents, from whom particulars of the properties and information about the solvency of the debtor-applicant should be collected; and low instalments of repayment should be provided; but punctuality of repayment at the fixed time should always be rigidly observed. Advances may be made from the banks as well, to pay off the debts as settled by the Debt Settlement Boards, where the creditors may agree to cut off their claim further, if immediate payment of the balance of the debt is made. Advances may be made for the consolidation and repayment of debts. At any rate the move suggested, if properly worked, will be of great benefit to the rural population.

Q. 88. I have no experience of the Land Mortgage Banks functioning anywhere in the interior for the benefit of the agriculturists.

Q. 89. The machineries available for prompt and compulsory realisation of the zamindars' dues are cumbrous and they have been harassing to the landlords and tenants as well. So many technicalities, rules of law and procedure, and rules of Civil Procedure Code have got to be observed—that the delay sometimes becomes inevitable. When the cadastral survey and settlement have been finished in almost every district, there is no reason why the summary procedure of certificate should not be made available. The certificate procedure being abolished, and a rent suit within nine months of a previous suit being barred, prompt realisation has been effectively stopped. Procedure of distraint of crops was abolished, and it came to be hedged in with so much technicalities involving costs, that the zamindars were not enthusiastic over the measure. Personal service of processes being made almost a *sine qua non*, the disposal of a case becomes necessarily delayed. Rules for the attachment of properties in a jurisdiction, outside the jurisdiction of the Court where the suit is instituted, are so elaborate that delay is the inevitable result. The rules of service on the resident tenants have been surrounded by so many conditions, that the relief wanted to be given is nugatory. Sale of moveables is almost an impossible thing in an execution case before a Civil Court. Above all, the dishonesty and the rapacious demands of the Civil Court officers, especially the peons, retard even the fruitfulness of a case.

The following suggestions are made:—

(1) Time more than a month should not be allowed to elapse in any circumstances to make the case ripe for hearing; and more than a fortnight after the case is ripe for hearing should not be allowed to elapse before the pronouncement of the judgment. Execution case may be allowed to be filed immediately after the decree is signed; and if there is a sale, and the property—moveable or immoveable is khas purchased, boynama (sale certificate) should immediately be given to the purchaser by the Court on its own initiative.

(2) Instead of Court guardians of minors, appointment of natural guardians should be made the rule, and failing that Court guardians may be appointed.

(3) Distraint of crops should be again provided, and the landlords should be allowed to apply for distraint and attachment of crops with their plaints, and the crops may be sold and the money secured by the sale may be kept in deposit till the disposal of the case.

(4) (*a*) Service of process should be made, one copy through post office, and the other through the Union Boards; and service through either of the agencies should be taken as effective service.

(*b*) Production of postal receipt should be taken as conclusive evidence, and the report of the serving agency or peon should also be taken as conclusive, unless a definite charge of collusion or mistake is made.

(5) Courts before which an execution case is pending, should have jurisdiction over property outside its jurisdiction in an execution case.

(6) (*a*) Service of processes of rent suit or decree should be taken as conclusive, if proved to have been made on all the resident co-sharers tenants of the village, in which the land is situated.

(*b*) If none of the tenants live in the village, then the service should be made on all the resident tenants or the heirs of the tenants, recorded in the settlement record and the decree will be a rent decree.

(*c*) If no steps have been taken for the correction of a settlement record for six years after final publication, the tenants recorded, or their heirs, should, for the purpose of a decree for rent, be taken as the tenants of the holding or tenure, and a decree passed for rent should be a rent decree.

(*d*) When in the execution petition sale of moveables is prayed for, the writ of attachment and sale should issue within a week after the filing of the application; and it should be made incumbent on the peon or officer, executing the writ, first to go to the mal cutchery of the zamindar, and thence to go to judgment-debtor's house accompanied by an identifier supplied from the cutchery.

(*e*) In case any obstruction by the judgment-debtor is reported by the peon, the Court should consider the report, and if satisfied, should immediately send it for hearing by the nearest Magistrate of the First Class.

(7) Landlords should be given the power as before to institute suits whenever any instalment of rent falls due.

(8) In rent suits damages double the amount of interest payable should always be awarded. This is expected to act as a deterrent on the habitual evasiveness of a tenant to pay his dues.

(9) (*a*) A tenant should be considered to be a "habitual defaulter", if for the realisation of dues from him three consecutive rent suits had to be instituted against him; and

(*b*) in cases of habitual defaulters of damages must be double than the damages awarded against an ordinary tenant, and the distraint application should immediately be granted, whenever it is filed.

(*c*) A tenant's possession of the land after khas possession is taken through Civil Court after the lands are purchased khas, should *ipso facto* be considered as illegal, and his position should be made as that of a trespasser: and Criminal Courts should maintain the possession of the purchaser after he takes his possession through Civil Court.

(*d*) When possession is taken of a land through the Civil Court, possession should be given also of the lands under the homesteads standing on it, by breaking them down at the cost of the decree-holder. There must not be another suit or proceeding for the purpose.

(10) Court fee values should be reduced, vakalatnamas should not be made necessary for execution and possession proceedings, arising out of a rent suit.

The effect of these will reduce harassment on the landlord and the tenant alike.

Q. 90. I do not consider certificate procedure harassing either to tenants or the landlords. To pay is always harassing, whether the debtor is the landlord, or the tenant. The disinclination to pay, and the indulgence and undue relief given, give rise to the mentality to evade payment of the dues.

The procedure prescribed for landlords to get certificate power is very harassing and costly especially in the maintenance of records; and the inconvenience is more costly when the maintenance has to be done for lands subject to alluvion and diluvion.

Q. 91. The question is very wide, and so difficult to answer. If simple repeal of the old Regulations and Acts, and their recodification in a consolidated form is what is suggested, I would support the suggestion.

Q. 92. It is impossible to give any answer within *the time that* has been allowed to me.

Q. 93. The economic effect on the landlords has been extremely harassing. It has been over and over again stated that they have been subjected to loss from all sides, and are bereft now of all means to realise their dues. Salami on transfers is gone, pre-emption is gone, liberty to sue has been restricted, interest realisable from all classes of tenants,—patnidars downwards,—has been reduced, in substance, they are now out and out rent-collectors with all means of prompt realisation taken away. The economic effect can be well estimated from the above. From loss on all sides, the result can only be loss.

About 2 per cent. of their income has been taken away by the abolition of the provisions that were made in the Act of 1928 for salami on transfers.

Reply by the Additional Manager, Burdwan Raj.

Q. 1. There were other objects of the Permanent Settlement besides those stated in (*a*) and (*b*), viz.—

(*i*) To exact the maximum possible revenue out of the total assets of the estates as ascertained at the time.

(*ii*) To ensure punctual payment and thereby to put the revenue system on a stable basis.

(*iii*) To offer scope for thrift and individual enterprise.

To say that the Permanent Settlement imposed a duty on the zamindars to extend to their subordinate tenants the same generous treatment which they were to receive from the Government is perhaps not precise. The zamindars could not possibly give unto their subordinate tenants all that they received from the Government in recognition of their proprietary rights. They were only expected to "conduct themselves with good faith and moderation towards their dependent talukdars and raiyats."

The Permanent Settlement being an engagement between the Sovereign and the zamindars could not and did not take away any existing rights from the tenants.

Q. 2. The Permanent Settlement did not expressly convey any such power to the zamindars; this power is implied inasmuch as it follows from the recognition of their proprietary right. Unless a zamindar has the right to choose his tenants from whom he is expected to collect the land revenue he cannot rightly be held responsible for punctual payment of revenue and unless he has the authority to regulate the usage of the land he cannot do his part in the development of economic interest of the province.

Regarding choice of tenants Mr. Harrington says in his Analysis:—
"The choice of his tenants is important to him (zamindar). By the transfer he may lose men of substance and responsibility for men of a different character and thereby be, at least, exposed to trouble, if not risk. The character of the purchaser may also be, in other respects, objectionable." (Vol. III, page 460.)

Assuming even for the sake of argument that the zamindar is a mere collector of revenue he ought to have a right to choose the tenant in the event of there being a transfer, otherwise he cannot in justice and equity be held answerable for default of the revenue which he is to collect from the transferee.

Q. 3. The part played by the landlords in the economic development of the country since the time of the Permanent Settlement was very great.

The reclamation of waste lands all over the country so far as has been done up to now was mostly if not wholly due to their endeavours and pecuniary aid; in some cases they did this at their own cost with hired labourers, in other cases they helped the tenants with necessary funds or allowed them to enjoy the lands free of rent for successive years until their labours were amply repaid. The tenants being as resourceless in the past as now would do nothing unless the incentive as well as the funds came from the landlords who were not only their only patrons but their only guide up to the near past. It was the landlords who established free religious and educational institutions for the spiritual and intellectual advancement of the people which made them fit for adding to their resources.

They encouraged arts and industries by making free gifts of lands to artisans and labourers (*vide* Hunter's *Statistical Accounts*, Vol. IV, p. 77-78). They constructed and maintained embankments and canals and tanks for the furtherance of agriculture.

They made roads and founded *hats* and markets for the sale of agricultural produce and products of art.

They established charitable institutions (sadabratas) for the purpose of supplying food to the famished and saving the lives of the people in years of famine and scarcity.

As an officer of the Burdwan Raj estate I know that this estate spent within the last 80 years Rs. 59,12,500 for agricultural improvements, Rs. 6,44,200 for roads, Rs. 24,98,800 for educational institutions and spends Rs. 60,299 annually for productive and protective purposes besides incurring other expenditure on humanitarian objects. I am sure other great zamindars have done their parts similarly. There may be instances of failure but those are only exceptions and due to individual failings. It is unjust and untrue to the extreme to stigmatise the landlords as a class for the failure of individuals as there must be black sheep in every fold.

Q. 4. The statement is not true. The proprietary rights of landlords originated long before the British Rule in India, at least as far back as the Moghul period. According to Sir John Shore—this right might have existed even before the Muhammadan conquest.

According to Manu, land was the property of him who first cut the wood and tilled it; a deer was the property of the hunter who first hit him fatally. This might have been the rule in the primitive ages as we find the same principle accepted up to now with regard to "no man's property." At a time when the idea of property and ownership did not dawn in human mind, when all the earth lay unclaimed and people did not know how to utilise it for their subsistence, the man who

first cleared the jungles and tilled the land was given the right to enjoy the fruits of his labour. This right was however anything short of the proprietary right as we understand it today. The exact nature and extent of this right cannot be ascertained as it was never precisely defined by the Hindu jurists but presumably it was restricted to the kind of user and enjoyment that was known and practised at the time.

James Mill in his *History of British India* says:—

"At different times, however, very different rights and advantages are included under the idea of property. At very early periods of society it included very few; originally nothing more perhaps than use during occupancy; the commodity being liable to be taken by another, the moment it was relinquished by the hand which held it; but one privilege is added to another as society advances: and it is not till a considerable progress has been made in civilisation, that the right of property involves all the powers which are ultimately bestowed on it."

Then again who was the tiller of the soil to whom this right—whatever the connotation is—was given? It is not perhaps correct to suppose that it is always or invariably the man who actually held the plough and drove the cattle for we find that as the caste system developed with the advancement of civilisation, the three upper castes, viz., the Brahmins, the Kshatriyas, and the Vaishyas enjoying a kind of limited proprietorship with regard to land which Sudras (slaves) "the actual tillers of the soil" were not allowed to possess. These upper classes had to pay a share of the produce (varying usually from 1/6th to 1/4th) to the King in recognition of his paramount power and in return for the protection which was offered to them. The Sudras who actually tilled the soil were not therefore the proprietors in any sense of the term. They were rather the servants or slaves of the three upper castes (*vide* Halhed, page 11). Whatever might have been the position of the "first tiller" in the primitive ages the same maxim cannot hold good now when every inch of land is claimed by someone or other in proprietary right in the widest sense of the term, no matter whether the right is inherent in him or derived from the Sovereign or established by long usage and undisputed enjoyment or created by contracts under sanction of the laws of the land. The man who first tilled the land is no longer in the scene; the present tiller is either a hired labourer or a man who was introduced into the land by his landlord on a clear and definite understanding with limited rights; so it is opposed to common sense to bloster him up as the proprietor of the soil. I daresay there is not one among the present tillers of soil who can trace his connection with the first tiller of the forgotten past either through succession or through private purchase.

According to the scriptures (Rig-Veda 15th Mandal viri 8,173) the King had the right to receive a sixth share of the produce of the soil

as also other customary offerings. According to ancient Hindu jurists the King had the right to receive the customary revenue (1/6th of the gross produce) and the tenant had the right to *possess and enjoy* the usufruct. The rights of the King to receive the revenue was probably in recognition of his position as the lord paramount of the soil; (this is consistent with Manu's description of origin of the earth in which everything is attributed to King Swayambhuva and 6 others (Sristi Prokarana, Chapter 1, Sl. 63) or it was probably in lieu of the protection which the King offered to his subjects. In any case the tenant was not the only person who had any interest in the land—there was the King, even from the oldest times to claim his share. The King however did not collect his share from individual cultivators but from the community represented by a headman.

The aggregate harvest was called into a common heap and the share of the State was set aside by the headman before the general distribution. Between the village headman and the King was a chain of civil officers, consisting of lords of 100 villages and lords of 1,000 villages. These were responsible for the collection of the revenue, for which they were remunerated by fees in kind, by a portion of the King's share of the produce, or by holding land revenue free in virtue of their office.

(Report of the Indian Taxation Committee, 1924-25, P. 53, also Field's Introduction to the Regulation, p. 22, 27.)

These officers were next in authority to the King and were entrusted with the supervision and control of village affairs like the Patriarchs of Roman Empire.

We find a reference to such village lords (or Grama Swamis) in Shaunaka's Dattaka Chandrika.

Their position now is, therefore, well established and the rights which they now possess were vested in them long before British Rule in India. "The notion of the proprietory right of the Sovereign is" according to H. H. Wilson "rather of Muhammadan than Hindu origin".

Grant of extensive zamindars, jaigirs and creation of freehold tenures by Muhammadan Emperors for distinguished service or military considerations were very common. Most of the ancient zamindars and talukdars received their grants from the Moghul Emperors. By these grants and sanads, zamindars and independent talukdars were vested with proprietary rights and were entrusted with the collection of revenue as well as all sorts of duties and taxes (e.g., sayer tax) and also with internal administration of their estates. The Crown retained merely the right to receive revenue.

This view finds support in the following extract:—

"The principle that the land belongs to the zamindars and the rent to the King found acceptance with the Muhammadan Rulers (Harrington's Analysis Vol. III, pages 232 and 245).

This was the actual position which Lord Cornwallis found in Bengal when the Permanent Settlement was effected and that was why the zamindars were recognized to be the actual proprietors of the soil in unmistakable terms. The Permanent Settlement did not elevate the zamindars from the position of revenue collectors to actual proprietors —it simply gave a fair recognition to their pre-existing rights.

However uncertain might have been the position in the early Hindu period, the weight of authorities seems to justify the conclusion that the zamindars were recognised as the proprietors of the soil during the Moghul Rule and this was never since disputed either by the Sovereign power or by the tenants. I quote below some of the authorities by way of illustration:—

"I consider the zamindars as the proprietors of the soil, to the property of which they succeed by right of inheritance, according to the law of their own religion and that the Sovereign authority cannot justly exercise the power of depriving them of the succession nor of altering it, when there are legal heirs.

"The origin of the proprietary and hereditary rights of the zamindars is uncertain; conjecture must supply what history does not mention; they probably existed before the Muhammadan conquest and without any formal acknowledgment, have acquired stability by prescription.

"I do not admit the sanad which the zamindars sometimes receive to be the foundation of their terms which, though it may acquire confirmation from it, exists independent of this deed. The origin of the possession of some zamindaris may be traced to a grant, but the inheritance goes on without it.

"The privilege of disposing of the land, by sale or mortgage, is derived from this fundamental right, and was exercised by the zamindars before we acquired the Dewani." (Mr. Shore's Minute of June 1789.)

"It seems proper to remark that at the time of resuming the *sayer* collections from the landholders doubts were entertained of the justice and expediency of the measure founded partly on the declared proprietary rights of the landholders." (Harrington's Analysis, Vol. II, page 226.)

"I admit the proprietary rights of the zemindars and that they have hitherto held the collection of the internal duties." (Minute of Lord Cornwallis of 3rd June, 1790; Harrington's Analysis, Vol. II, p. 228.)

(*Also see* Field's Introduction to the Regulation p. 368; p. 34 for description of a zamindari tenure.)

Q. 5. That the annulment of the Permanent Settlement would be a breach of a solemn pledge given to the zamindars by the Sovereign authority is a fact which cannot possibly be denied by the most radical advocates of its abolition. Couched in clear and emphatic terms the pledge stands in the time hounoured Regulation "that the zamindars, the independent talukdars, and other actual proprietors, with or on behalf of whom a settlement has been or may be concluded, are to consider the orders fixing the amount of the assessment as irrecoverable and not liable to alteration by any person whom the Court of Directors may hereafter appoint to the administration of their affairs in this country."

It enjoins the zamindars " to exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry and that no demand will ever be made upon them or their heirs or successors by the present or any future Government for an augmentation of the public assessment in consequence of the improvement of their respective estates." It was not a boon exacted from an unwilling Government by a recusant body of landlords but a voluntary promise made by the ruling power under advice of renowned statesmen, not merely for the benefit of the landlords but also in the interest of Government and for the general welfare of the country. It is no wonder if the landlords view this promise as sacrosanct or inviolable. Any one who considers promise as anything more than mere sound waves or contract as anything better than a waste paper would think likewise. Relying on the promise of the ruling power, assured under the sanction of law, the zamindars spent large amounts for the improvement of the lands and people purchased zamindari properties at enormous costs. To deny them now the proprietary right which they admittedly and expressly enjoyed for nearly a century and a half is opposed to all sense of reason and justice. They have as much right to claim the properties as their own as any other capitalist can claim a factory or a business concern which he has built with his funds. To deprive the zamindars of their estates by annulling the Permanent Settlement would be absolutely a confiscatory measure the like of which is not to be found in a civilised Government unless it is imbued with communistic principles. The contention that the tenants were not a party to the pledge of the Permanent Settlement carries no weight. In an arrangement between the Government and the zamindars the tenants do not and cannot come in unless any of

their vested rights are affected. There is nothing in the Permanent Settlement that affects the rights of the tenants. To say that the Permanent Settlement crippled the financial resources of the country is a misunderstanding of the exact position. As I have already said one of the main objects of the Permanent Settlement was to put the land revenue system on a stable basis and to obtain a guarantee for punctual payment of revenue without any claim of reduction or remission for failure of harvest or other natural causes. The administrators at the time considered this to be of far greater importance than the mere possibility of a future increase in the revenue. It is not correct to criticise the measure with reference to present day circumstances. If the rent roll of the permanently settled area has increased from 3 crores to 12 crores the bulk of it is due to reclamation of waste lands through the efforts and resources of the zamindars as from the statistics collected by the Land Revenue Commission we find that only 15·94 per cent. was due to enhancement of rent. In view of the assurance given by the Government to the zamindars in terms of the Permanent Settlement that they would enjoy the fruits of their labour and of the extended cultivation of their soil, the Government cannot consistently claim any share of the increase of resources due to reclamation of waste lands. The following extract from Mr. Grant's Review of the Revenues of Bengal shows the position before the Permanent Settlement and justifies the measure sufficiently:—

"Dissatisfied with the collection of revenue for 1760-61 they (the 1st Superintendents, Mr. Johnston, Mr. Hay and Mr. Bolts) farmed out the estate at public auction for a period of three years, a procedure which was directly opposed to the financial practice of the Moghul Empire. The needy adventurers who became contractors at the sale, as might have been expected, failed in their agreements, and matters went steadily from bad to worse. The Superintendents were charged with every sort of corruption, and apparently they did as a matter of fact hold a considerable part of the district in their own hands."

Phillip Francis, the earliest advocate for the Permanent Settlement, considered this as the medium through which alone the East India Company could derive a fixed and permanent advantage from their territorial acquisitions. "They who profess to make every other consideration," he said, "yield to that of immediate profit to the Company, either do not understand the true and lasting interests of the Company or they mean only to captivate your present favour * * * You have seen and felt the consequence of those measures, which professedly had no view but to obtain an instant unlimited tribute from every land of this country. A more moderate system will not promise you such immense ideal returns in future, but it will probably secure to you a fixed unalterable fund for the provision of as great an investment as

you have usually received in Bengal and on which you may reckon forever." (P. Francis's Letter to Court of Directors, dated the 22nd January 1776.)

Q. 6. The landlords have done their part as I have already said in my answers to questions 3 and 5 above, but fulfilment of expectations is subjective, none can be very sure that he has fulfilled the expectations of another whom he is given to satisfy.

The following extract from a speech of His Excellency the Governor-General is a complete answer to the question :—

"The great importance of the landed interest lies in its potentialities for good and the contribution which it is in a position to make to the welfare of the countryside whether in terms of improvement of the condition of tenantry, or in terms of the development of natural resources and the introduction of up-to-date appliances and methods of farming. Very much has, I know, been done in this direction by enlightened landlords. Much must inevitably remain to be done in a country of the size of India, a country distinguished by such varieties of soil, climate and agricultural problems. and I am sure that you, gentlemen (landlords) with your great responsibility are as fully alive to this as any one can be." (Speech of Lord Linlithgow, delivered on 11th December 1938.)

(Please also see answers to questions 16 and 20 for the social and economic part played by zamindars.)

The exact proportion cannot be determined but one who has direct knowledge of the activities and resources of the landlords and raiyats will have no hesitation in saying that by far the largest portion is due to (*iii*). Increase in population merely creates a necessity for finding more provisions, it cannot by itself extend cultivation which must depend mainly on resources. The demand for additional provisions may be created by increase in population but not the supply.

Q. 7. It is just possible that 3 crores at the time of Permanent Settlement is based on returns received from the zamindars or others whose interest it was to understate the gross assets and we cannot also be very sure that 12 crores or 16 crores as recorded at the cess re-valuation proceedings are correct as we find the re-valuation figures questioned so often and proved to be inaccurate. Admittedly, however, there must be a considerable difference and in my opinion this is due mostly to cause (*i*) and a little to cause (*ii*) and only 15·94 per cent. to (*iii*).

Q. 8. The zamindars have done their part generally with few exceptions, if there be any; but fulfilment of expectations is quite another aspect of the case as I have already said. It will not perhaps be an exaggeration to say that in some respects they have given more

to their tenants than what they got from the Government in terms of the Permanent Settlement. Just as the Government fixed their revenue permanently so also the zamindars in their turn let out their lands in perpetuity at fixed rent and in doing so they sacrificed their future income as much as the Government did in their case. Examples are not wanting to show that zamindars have from time to time accorded generous and kind treatment to their raiyats by granting remissions of rent to their tenants in need though they themselves never received any remission from the Government. As an officer of Burdwan Raj Estate I know that the Maharajadhiraja Bahadur granted remission of rent to the extent of Rs. 32,69,802 within the last 38 years, though he has been paying the full revenue to the Government kist after kist punctually. They have made large gifts for the physical, intellectual and spiritual welfare of the people; they have supplied food and funds to their tenants where the Government failed. I am not aware if there are many who failed in their duty to the tenants. The relationship between the landlords and tenants was all along happy until it was recently embittered by people who were actuated by motives other than the real welfare of the peasants. I may further add that what was left to the good sense of the zamindars in the terms of the Permanent Settlement was taken up to be achieved by subsequent legislations and as the position is at present, the zamindars need greater protection than the raiyats.

Q. 9. My answers to questions 3, 6, 7 and 8 and answer to question 1 above may be seen. I do not think that the zamindars, with the exception of a few, have failed in their duty. The failure is not in my opinion due to absenteeism or want of close touch. It may be due to individual temperament or want of resources. A small zamindar with a limited income cannot possibly do as much on his own little property as a big zamindar may do in respect of his estate even if the former has as much wish to improve his village as the latter. Whether a man lives in his village in close touch with his tenants or remains far away is more or less immaterial in as much as it is always the inner man that makes a sacrifice, the physical contact counts for nothing. England rules India from across the seas yet it is reputed to be a good Government but the village tyrant robs his next door neighbour whom he meets every hour in the day. As a matter of fact we find that the big landlords who have done the greatest good to their estates are the absentees and even small landlords who are seldom seen in the outskirts of their village are sometimes known to be most rapacious and oppressive. Further, it is not understood what attendance is necessary to cure absenteeism; if a zamindar has ten thousand villages within his estate scattered over six or seven districts, he cannot possibly live in each village for a day once in 27 years. Will he be condemned as an absentee landlord?

Q. 10. Yes, Permanent Settlement was for the greatest good of the greatest number. Neither the Government nor the zamindars would have felt secure without this and none would have ventured to undertake enterprise or make improvements which sometimes required large capital and years to accomplish. Had there been no Permanent Settlement the revenue system would have undergone constant fluctuations. One of the avowed objects of the Settlement was to get rid of the frequent investigations and revisions of the land revenue which were considered detrimental to the prosperity of the province and to the interests of the Government as well.

The tenants have lost nothing under the Permanent Settlement. On the other hand, they have been spared to a great extent the usual oppressions and exactions of the farmers who were virtually in the position of temporary lease holders. Before the Permanent Settlement zamindaris used to be settled with the highest bidders who would reimburse themselves by squeezing poor tenants as much as they could. As a result of the Permanent Settlement we find that the tenants are not only saved from the exactions of the old farmers of revenue but enjoy their lands at a much smaller rate of rent than what is paid by tenants in Government khas mahals and temporarily settled estates (*vide* Statement IX).

The value of the average produce per acre being Rs. 49 (Statement I) and the raiyati rent being only Rs. 3 per acre the raiyat gets at least 8 times as much as big landlords do out of the produce of the lands after meeting the expenses of cultivation. It is therefore altogether absurd to say that the Permanent Settlement has benefited the landlords at the expense of the tenants.

Q. 11. This is not a fair criticism. Each of the grounds are examined below:—

(*i*) It is not correct to say that the zamindars appropriate nearly 80 per cent. of the income from land.

"The assessment was fixed approximately at 10/11ths of what the zamindars received in rent from raiyats, the remaining 1/11th being left as the return for their trouble and responsibility" (Taxation Committee's Report, Vol. I, page 42, also see page 266). It should be remembered that the zamindars are seldom if ever able to realise the full rent that appears in the rent roll. Demands for remissions and concessions are too frequent owing to natural disasters. Then there are bad debts which must be wiped out. Lastly, there are the village bands of non-co-operators and "no-rent" preachers and Debt Settlement Boards to paralise all efforts in Court and out of Court. As the situation now is even the most ambitious zamindar will be content to realise a full year's rent every third year and leave the balance to be paid at the tenant's leisure. In most of the estates owned by the Burdwan Raj the

margin of profit is below 36 per cent.; it does not in the average exceed 16 per cent., while the minimum is even below 1 per cent. or nil.

(*ii*) It is not correct to suppose that Permanent Settlement has led to subinfeudation of tenancy. So far as raiyati holdings are concerned there is no subinfeudation. There are no doubt intermediaries between the zamindars and raiyats in the shape of patnidars, dar-patnidars, etc., but these are creations of necessity and mostly to be found in large and extensive estates.

(Report of the Indian Taxation Committee, Vol. I, para. 61.)

The zamindars imitated the Government by letting out their lands to others in perpetuity or for fixed terms either at fixed or variable rents for convenience of management and security of collection. These intermediaries existed since long before the Permanent Settlement in some shape or other. Personally I do not find any reason to consider this practice as detrimental to the interests of the country; on the other hand, it serves an economic purpose by distributing agricultural wealth amongst a large section of the community which has always played a very prominent part in the advancement of the society.

(*iii*) It is not understood how the Permanent Settlement has led to enhancement of raiyati rents. There is nothing in the Regulation that creates an opportunity for the zamindars to enhance the rent; on the other hand, the successive legislations enacted since the Permanent Settlement for the protection of the tenants have restrained this right of the landlords to a minimum limit. We find from the statistics collected by the Land Revenue Commission that the enhancement of rent is only 15·94 in the permanently settled area as against 37·45 in the Government estates. The position of the raiyats previous to Permanent Settlement appears in the following extract from Hunter's Statistical Accounts:—

"During native rule and for a long time after British accession to the administration, the landlords were accustomed to exact from their tenants in addition to the rent of their lands a variety of other cesses and fees called abwabs. Some of these are so closely connected with the land that they come to be considered as a part of the rent."

It cannot be denied that the present position compares very favourably with the past.

(*iv*) The system of overlordship, if there be any, has not prejudiced the interest of the cultivators in any way. Its evil effects have been checked by spread of education and proper legislation; modern zamindars have lost much of their ancient grandeur and authority. In these days of democracy it is doubtful whether any overlordship exists at all. If there be any, it is remnant of the past. Inequalities between

man and man existed in all times and in all countries. It is bound to exist everywhere and always. Even if the present body of landlords are made to disappear from the scene other overlords, presumably of a much worse type, will step into their shoes. In my opinion the criticism is more or less fanciful.

Q. 12. In my opinion the abolition of the Permanent Settlement will be unwise and injurious to the prosperity of the country. The Government will lose the security of punctual payment of revenue and the support of a cultured and influential section of the society who have readily co-operated with the Government in advancing the moral and physical welfare of the people and in maintaining law and order and the people will lose the patronage and guidance of a resourceful body whose interests are inseparably linked up with theirs.

Utopia exists in the conception of Plato. We never found a place like that in the mortal world. No system is without a flaw. Before we think of abolishing Permanent Settlement it is worthwhile considering to what extent the huge income derived from the non-permanent areas is being applied for the welfare of the tenants. It is perhaps too much to expect that the increased income of the State as estimated to the extent of 70 or 80 per cent. in consequence of the abolition of the Permanent Settlement would be utilised for the benefit of the tenants and not for the maintenance of a top heavy administration.

Q. 13. It is not correct to say that the continuance of the Permanent Settlement involves a loss to the State to the extent of 75 per cent. of the raiyati assets. 12 crores on the cess revaluation basis may be an overestimation as I have already said, besides there is a wide difference between 12 crores in figures and 12 crores in coins. In assessing the loss at 75 per cent. no account has apparently been taken of the court-fees income which the Government gets in addition to the revenue or of the possibilities of non-realisation or remission or abuses of the collecting agency whoever they are. I do not advocate the recoupment of the loss of revenue, whatever it is, by adopting any of the measures suggested in the question because:—

(*i*) The total abolition of the zamindari system will be absolutely a confiscatory measure without any justification and without any corresponding benefit to the Government or to the people.

(*ii*) The effects of temporary settlement were tested in the past and found not to be alluring. The following extract from Harrington's Analysis will further illustrate the point—"The increase of revenue expected from this settlement (viz., temporary settlement with farmers) were not realised, the farmers having engaged for a higher revenue than the district could afford; and the hereditary landlords, from whom an improvement of the country might be naturally looked for under a

permanent assessment, being, in general, excluded from the management of their estates." (Harrington's Analysis, Vol. II, page 21.) Even at present we find that the tenants of temporarily settled estates are not in a better position than the tenants of permanently settled estates. So it is no good reverting to an old system which was found to be unsatisfactory not only from popular point of view but also from the viewpoint of the Government.

(*iii*) The imposition of a tax on agricultural income will be in direct contravention of the terms of the Permanent Settlement and will be generally unpopular if it is imposed in addition to the fixed rent which is now paid by the zamindars. The idea was discouraged by the Taxation Committee in their report as being inopportune and undesirable (*vide* Vol. I, pages 205-6).

Q. 14. I don't advocate (*i*) or (*ii*) as I have already said but if the Permanent Settlement must be abolished for any reason then zamindars should get the statutory compensation under the provisions of the Land Acquisition Act, that is, 20 years' profits and 15 per cent. compensation. If the intermediaries are supposed to appropriate 75 per cent. which the Government is supposed to lose then the amount of compensation which the Government will have to pay in buying up the intermediate interests is about 181 crores and this should in my opinion be paid in G. P. Notes bearing interest at 3½ per cent. per annum.

Q. 15. If compensation is paid in bonds, the bonds should carry interest at 5 per cent. and be redeemable in 20-25 years.

Q. 16. State purchase of zamindaris will lead to the following evils:—

(*a*) It will destroy the personal touch and friendship between landlords and tenants.

(*b*) It will extinguish the long established rights and privileges of the zamindars and will convert them into middle class men of petty resources without tradition or prestige.

(*c*) It will considerably jeopardise several arts and industries and production of expensive handicrafts and fineries which have been so long chiefly patronised by the landed aristocracy.

(*d*) It will deprive the tenants of the help and guidance they were so long receiving from the landlords in religious and social matters.

(*e*) It will extinguish a class of capitalists on whose munificence a good many of the present public institutions still depend.

(*f*) It will revolutionise to a great extent the social and administrative system of villages.

(*g*) It will render people solely dependent on Government for every sort of help or enterprise for which they had so long looked to the zamindars.

(h) It will cause local affairs to be managed by Government officials most of whom coming from outside the district or holding transferable posts can scarcely be expected to get familiar with the internal condition of the locality within the short span of their service or to deal sympathetically and tactfully with local problems. The position occupied by the zamindars in the social structure of Bengal is very well illustrated in the following extracts:—

"The natural and acknowledged leaders in the country areas are the landed aristocracy. They generally represent ancient and well born families and their estates are often the result of conquest or grants of some mediæval monarch. By position, influence and education they are fitted to take a leading part in public affairs. Some of them are beginning to do so. They stand upon a conception of social order which is not easily reconcilable with the hustings and the ballot box (Report on Indian Constitutional Reforms, 1918, page 94, paragraph 147).

The following passage from Harrington's Analysis is also illuminating:—

"From a long continuance of the lands in their families it is to be concluded they have rivetted an authority in the district, acquired an ascendency over the minds of the raiyats and ingratiated their affection" (Harrington's Analysis, Vol. II, pages 17-18).

Q. 17. If the zamindars must go and their interests purchased then all the intermediate interests between the Government and the raiyat should also be purchased otherwise it will serve no purpose. I do not think that the change will lead to any advantage.

Q. 18. I am not sure if it is possible to estimate it even roughly at the present stage.

Q. 19. The rate of rent under the zamindari system is far below the rate of rent in khas mahals (*vide* list of statistics, Statement IX) and as such raiyats can scarcely be expected to prefer coming under the Government. Moreover the machinery for prompt realisation of khas mahal rent is very much oppressive to the tenants. The tenants of the estates under Court of Wards have shown their discontent against the rigorous methods of realisation of rents. Enhancement of rent is more frequent and more burdensome in the case of khas mahal tenants than in the case of tenants in zamindari estates; yet remissions of rent and several other favours in the shape of pecuniary aids or gifts of articles are not as readily available from the Government as from the zamindars. In such circumstances I cannot think for a moment that the tenants in zamindari estates would covet the position of khas mahal tenants.

Q. 20. Subinfeudation cannot be called an object of Permanent Settlement though the Permanent Settlement might have given it an impetus. Subinfeudation was present to a certain extent even before the Permanent Settlement. In the management of big zamindaris subinfeudation is unavoidable.

After the Permanent Settlement zamindars came to be permanently established in their estates. Unlike the casual farmers who took temporary leases from the Government in the days of the East India Company, zamindars came to identify themselves with the social and economic problems of the day. Since Permanent Settlement they have been occupying an important place in society and not infrequently have been called upon to pronounce their verdict in cases of infringement of social laws and to render all possible asssistance for the proper observance thereof. Loyalty and homage to the throne which are some of the distinguished characteristics of the eastern people fostered chiefly through the support and example of zamindars. It has had the following effects on the raiyats socially and economically:—

(1) Owing to fixity of revenue occasion for oppression on tenants no longer existed; for every increase of revenue is found to be followed by a corresponding increase of impositions on tenants.

(2) Both zamindars and raiyats knew their financial position better and had ample facilities for industry and enterprise.

(3) Several types of cottage industries and fine arts flourished and received impetus.

(4) Zamindari system has helped to grow feudalism in India and has created various types of service tenures and endowments such as "debottar, pirottar, brahmottar, etc." (*vide* Hunter's *Statistical Accounts*, Vol. IV, pages 77-78).

Q. 21. This will possibly lead Bengal half way to Russia. Similar results are expected to follow as has been stated in my answer to question 16. The following passage from the writings of Mr. E Burke is instructive in this connection:—

"The idea of forcing everything to an artificial equality has something, at first view, very captivating in it. It has all the appearance imaginable of justice and good order; and very many persons, without any sort of practical purpose, have been led to adopt such schemes and pursue them with great earnestness and warmth. I am, for one, entirely satisfied, that the inequality which grows out of the nature of things, by time, custom, succession, accumulation, permutation, and improvement of property, is much nearer to true equality, which is the foundation of equity and just policy, than anything that can be contrived by the tricks and devices of human skill. What does it amount to, but that, after some little jumbling, some men have better

estates than others. I am certain that when the financial system is but tolerably planned, it will catch property in spite of all its doublings; and sooner or later those who have most will pay most; and this is the effective equality, which circumstances will bring about themselves if they are left in their own operation" (*Life of E. Burke* by R. Bisset, Vol. II, page 147) (*also see* Taxation Committee's Report in this connection, Vol. I, paragraph 99).

Q. 22. Zamindars should have the option to retain their homestead as well as khas lands on payment of reasonable ground rent in case State purchase of zamindaris and tenures is indispensable and they ought to be allowed to retain possession of their revenue free lands free of rent.

In determining zamindar's or tenureholder's khas lands documents relating to those lands as well as Government records should be taken into account. The criterion should be as to whether the landholder in question has acquired the property as landlord (e.g., in lieu of rent) or whether he has purchased or inherited it like his tenants.

Q. 23. Occupancy right is not a creation of British legislation. Before the enactment of the Tenancy Laws, Act X of 1859, Act VII of 1885, this right seems to have been enjoyed exclusively by the khudkasht raiyats as a matter of custom. After these enactments the privilege was extended to other classes of tenants including the paikasht raiyats.

See—(1) Shore's Minute of 28th June 1789, paragraph 389.

(2) Field's Introduction to Regulations, pages 24-26, 40.

(3) Harrington's Analysis, Vol. II, page 64, Vol. III, pages 437-38.

The tenants' right of enjoyment was also recognised in the early Hindu period (Manu).

Q. 24. I do not support this view. Proprietary rights of the landlords to the soil have been recognised from ancient times and have been well established by long and undisputed usage supported by law. My answer to question 4 above may be seen in this connection. It is too late in the day now for the raiyats to claim the right or to say that "rent" is not rent but tax. Rent has been defined as "that which one pays for the use of durable goods of any kind owned by another" (Ely). Ricardo defines it as "that portion of the produce which is paid to the landlord for the use of the original and indestructible powers of soil." A tenant was never the proprietor in the true sense of the term as his right was restricted to occupation and enjoyment of the land and a portion of its products. This right he has even now but he was never known to be proprietor at the same time.

Q. 25 & 26. I am not in favour of extending occupancy right to different grades of tenants as this will lead to fragmentation of the holding and will increase the difficulty of collection. **Right of occupancy** should be given to the statutory raiyat—whether he is the actual cultivator or not, so that the difficulty mentioned in (*a*) and (*b*) may not arise.

Q. 27. Though the object of the Permanent Settlement was "to promote the future ease and happiness of the people" generally, its obvious intention as expressed in section VIII was to protect the agricultural classes which formed the great bulk of the population and who were considered to be more or less indigent.

I am not in favour of giving occupancy rights to non-agricultural classes. The non-agricultural tenancies are creations of contract and the provisions of the Contract Act and Transfer of Property Act are sufficient to protect their interests.

Q. 28. There is no reason to think so. But that is a matter entirely between the landlord and the tenant and there is no reason why the State should levy any additional tax for such conversion.

Q. 29. Yes. The increase is due to the following reasons:—

(*a*) Change of pursuits: many have left the plough in quest of service or other better avenues of activity.

(*b*) Physical incapacity to endure hard labour.

(*c*) Transfer of occupancy holding to non-agriculturists or to those bigger agriculturists who have more lands than they can themselves till.

(*d*) Migration of cultivators to towns owing to increasing insanitary condition of villages.

(*e*) Growth of industrial concerns, mills, factories inviting highly-paid labour. Statement VII of the statistics shows that between 1924 and 1931, agricultural population has much decreased. This decrease is due to one or the other of the above factors to some extent.

Q. 30. Besides those enumerated under question 29, the three other causes suggested in this question also contribute to some extent to the increase in the number of bargadars.

Q. 31. The area varies according to the capacity and resources of the bargadars. On the average a bargadar will be usually found to hold 5 or 6 bighas. Many of them have lands of their own held in raiyati or under-raiyati interest.

Q. 32. No, this may fix up undesirable tenants on the holding and cause fragmentation of holdings. This may likewise invite people of

other provinces to come and settle in Bengal which is already over-populated. Evils mentioned in question 34 are also likely to arise.

A bargadar generally does not undertake any responsibility. He simply gives a share of the produce to the true owner and that share is always in accordance with the prevailing standard. Often does he require the owner to supply manures or advance money without interests for carrying on cultivation. If there is any produce he gives the agreed share to the owner, if there is a total failure of crops he gives nothing and has no liabilities. It is in substance a service with a prospect of gain which is much more than he could earn as a labourer on wages and as such there is no occasion for giving him any protection unless a landlord or a raiyat who invested money on the land can be given the same protection against failure of crops.

Q. 33. There is one great disadvantage in this system. As a general rule the bargadars do not take good care of the lands or sufficient interest in cultivation as a result of which the productive power of the land gradually deteriorates but at the same time it is to some extent a necessary evil as this system is frequently resorted to by women and minors and absentee cultivators who cannot for some reason or other till their own lands nor have means enough to meet the expenses of cultivation. The abolition of this system will mean an absolute deprivation to these people and their lands will probably lie fallow and ultimately become entirely unfit for cultivation. The further extension of this system to an undesirable limit may perhaps be checked by restricting the transfer of occupancy holdings, by improving the sanitation of villages and making agriculture more profitable than at present.

Q. 34. My answer to question 31 above may be seen. Yes, the zamindars shall, in all probabilities, keep the lands in their khas possession and a considerably large number of bargadars will be thrown out of employment.

Q. 35. The proportion is generally found to vary from ½ to ⅓ of the produce and is determined more or less by (*i*) usage, (*ii*) economic considerations, (*iii*) mutual agreement, and (*iv*) fertility of the soil. As to whether any such proportion is fair must be judged according to the prevailing circumstances and also with reference to the custom of the locality. No uniform general rate can be prescribed.

Q. 36. Wages of agricultural labourers in western Bengal usually vary from 4 as. to 6 as. per diem according to demand. This income is much more uncertain than that of a bargadar or an under-raiyat. If the latter work honestly they in most cases earn more than what a labourer would do. A labourer on the other hand may not often find *employment though he may have the will and capacity to work but*

even in bad years he has some income which a bargadar or under-raiyat may not have. As however failure of crops comes only at intervals of years, under-raiyats and bargadars are generally found better off than agricultural labourers.

Q. 37. Yes. Both the Acts have facilitated transfer of considerable areas of raiyati holdings to non-agriculturists. This unrestricted transfer is prejudicial to the interests of the actual tiller. The cultivators as a class are improvident and uneducated. They fall an easy victim to the usurious moneylenders and unscrupulous land-grabbers and transfer their holdings thoughtlessly. It will be to their own interest if they are put under some restraint as the tenants of Manbhum on Sonthal Parganas. By restricting transfer to agriculturists only the position may be improved so far as agriculture is concerned but the position of the transferer will remain as precarious as now.

Q. 38. The meaning of the expression "economic holding" is not quite clear. If it means a holding which is just sufficient for the subsistence of a man then for a family of 5 members an economic holding should consist of 8 acres of land but if the lands yield 2 crops annually then a smaller area, say 4 to 5 acres, will suffice. The extent of the holding must necessarily vary with the value of the annual products, productivity of the soil and cost of cultivation.

If the expression means distribution of agricultural lands with reference to agricultural population then the area of an economic holding will be nearly 5 acres for a family of 5 members.

Q. 39. Yes, the holdings are mostly uneconomic and causes of sub-division and fragmentation are as stated in the question.

Q. 40. Yes, consolidation of holdings is desirable for the purpose of economic cultivation; but it is difficult to carry it out in the face of the obstacles mentioned in question 39. The difficulty can however be overcome to a certain extent by legislation restricting fragmentation below the economic standard and enabling the landlord to purchase the entire holding to avoid fragmentation. The Bengal Tenancy Amendment Act of 1938, worked however quite the other way.

Q. 41. Yes, I would, if that is fair and reasonable.

Q. 42. Accumulation of large areas in the hands of raiyats not having the capacity of cultivating the lands is harmful not only to the lands but also to the general body of cultivators. It leads to sub-infeudation and multiplication of bargadars and hampers the progress of agriculture. It should therefore be limited to the cultivating capacity of the purchaser in such cases. On the other hand, such

accumulation is not only desirable but necessary in the case of zamindars, tenureholders and capitalists having sufficient resources for the purpose of large scale production as well as for scientific agriculture from economic point of view. Enough lands should however be left for the subsistence of actual cultivators in any case. It is difficult to regulate the transfer of holdings consistently with the above principles. I am not sure if legislation in that direction will prove effective.

Q. 43. Yes, it is detrimental in the case of small holdings if a division is wanted but if there is jointness of possession or if the area is such that it can be distributed between the co-parceners in economic units it does no harm. I do not think the evil can be minimised without interfering with the law of inheritance.

Q. 44. The evil can be minimised to some extent by making legal provisions so as to restrict partition of small holdings and to confer the right of ownership to a single co-parcener to the exclusion of others on payment of value of their different shares.

Q. 45. Perhaps joint collection is meant. It is in my opinion desirable though it may be rather disadvantageous to small landlords who do not or cannot appoint salaried agents for collection of rent. The change will at all events be for the greatest good of the greatest number.

Q. 46. Though nothing has been expressly stated in the statute regarding enhancement of rent it seems to me that enhancement of rent is not repugnant to or inconsistent with the objects of the legislature. Otherwise, zamindar would have no incentive to improve the holdings of his tenants at any cost. There can be no investment without a prospect of return and a zamindari is as much a business investment as any other. By the Permanent Settlement only one-eleventh of the total rent receipts was left for the maintenance of zamindars. (*See* Taxation Committee's Report, Vol. I, page 42) and imposition of fresh taxes or realisation of abwabs which the zamindars could do previously was prohibited (Harrington's Analysis, Vol. III, pages 22-23), yet they were expected to improve their lands. It was certainly not expected of the zamindars to spend the minimum margin of profit that was left to them for the benefit of their tenants. The right of enhancement was subsequently restrained by legislation and for every ground of enhancement there was a corresponding ground of reduction of rent on the side of the tenant. The latest amendment of the Bengal Tenancy Act has even gone further to allow reduction to tenants without granting enhancements to landlords on corresponding grounds. The amendment is opposed to all sense of justice and equity and is a distinct departure from the principle followed invariably by the legislature for more than a century.

Q. 47. No; there is nothing in the Regulation that leads to the conclusion that its framers contemplated permanency and fixity of the rates of rent either in the case of the tenants who were then existing or in the case of future tenants. That would be a distinct discouragement to the landlords to invest their capital in the improvement of lands and that would decrease the value of the estate. As a matter of practice we however find that "many tenures, the incidents of which were not exactly defined when they were created, have become istimrari and mokarari by custom with the support of legislation.........and thus many tenures have become mokarari which were not so at inception." (Field's Introduction to the Regulation, page 39, section 37.) On the whole we may say that this change of character is not so much due to legislation as to custom and forbearance on the part of landlords concerned. The finally published record-of-rights of the last District Settlement operations will show that a considerable number of mokarari holdings and tenures have been recorded in every mauza the origin of most of which could be traced to sometime long after the Permanent Settlement. These mokararis are more numerous in the estates of good landlords who, though having power to enhance rent in some circumstances, never exercised the power and were content to realise the same rent always, than in the estates of other landlords who exercised their rights in accordance with law and increased the rents with the rise in the price of the staple food crops or on other grounds.

Q. 48. As I have said, the view that the Permanent Settlement intended to fix the rent of those tenancies which existed at the time does not find support in (*a*), (*b*) or (*c*). As for (*d*) the provisions of sections 6 and 50 (1) of the Bengal Tenancy Act are somewhat like the extinction of a substantive right under the law of limitation. The essential requisite for the purpose of getting a relief under either of the two sections is the fixity of the rent and not existence from the time of the Permanent Settlement. As regards (*e*), in the face of the declaration that the zamindars will enjoy exclusively the benefits of their own good management, the Government could not claim any share of the increased rent. The Government made the revenue unalterable for the sake of punctuality and safety of realisation and for the sake of general prosperity of the country and not for fixing the rent of the raiyats who were no parties to the engagement.

Q. 49. Supposing even for the sake of argument that the framers of the Permanent Settlement intended that the rents of the tenants then existing should never be increased, I do not think that there is any case for reducing the rents of such tenants if there be any to the level prevailing at the time of the Permanent Settlement. No materials are available for determining what those rates were and it is almost impossible to ascertain which of the present tenants hold the lands by

right of inheritance from the tenants of 1793, or by right of purchase either by a kobala from the tanants of 1793 or under a sale certificate at a Court sale or under a new engagement with a zamindar any time between 1793 and now. Arguments if there be any in favour of a descendant of the tenant of 1793, there is none in favour of any other, yet to ascertain who is who, one has to plunge into an antiquarian research. I do not think that the tenants have any grievance that call for a redress in this direction.

Q. 50. It was not the intention; and as such the Government committed no mistake in providing for enhancement in the Tenancy Legislations since 1859. The original rent was a share of the produce of the soil; in course of time this was commuted to money with the consent of all parties concerned. So it is quite reasonable that the rent should be increased with the rise of the price of the staple food crop. Further as the tenants have a corresponding right to get reduction of rent with the decline of price there is no cause of complaint on either side.

Q. 51. Possibly the intention was that the settlement of waste lands should be made at pargana rates as we find its indication in section 60, Regulation VIII of 1793.

Q. 52. Customary rates seem to be the safest principle to follow. This is perhaps similar to the pargana rates referred to in the old legislations. In fixing fair and reasonable rents the Courts generally take this into consideration.

"Fair and equitable rent meant, not the rate obtainable by open competition but the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent. Also that what is fair and equitable depends on the value of the produce and the cost of production." (I.W.R., p. 3).

If instead of accepting the customary rate the principle of determining the fair and equitable rents is fixed on a definite share of the produce then that should be 1/6th of the gross produce of the land as has been the rule with Hindu Kings of the past and also with the Moghul Rulers. There may be some defect in the latter principle but systems 1, 2 and 4 also are not free from defects altogether; for instance, a family of 5 members will have to pay a smaller rent than a family of 2 or 3 members for lands of equal dimensions and quality if system 2 is followed; and the tenant of a land that produces just enough to repay the cost of cultivation will enjoy the land free of rent according to system 1; and as the market value of lands varies very often system 4 will be too uncertain to follow.

Q. 53. Rents are influenced by custom and producivity. Competition scarcely determines such rents and can only be found to exercise a mild influence in Government estates. Majority of rents are

fixed at bigha rates though they are not usually based on any fixed principle or basis (*see* Taxation Committee's Report, Vol. I, pp. 77-78).

Yes, rates are found to differ greatly for lands of similar value. This difference is sometimes due to the difference in the practices of different landlords and sometimes to the amount of premium paid at the settlement and on rare occasions to personal grounds of some sort of relationship between the landlord and tenant.

Q. 54. No, so far as the Burdwan Raj Estate is concerned, it has ever since given the most liberal consideration to poor and weak tenants. Other factors which have influenced the fixing of rent in Bengal are:—

(1) Sentiments of landowners;

(2) Social position of the landlord and tenant;

(3) Public opinion;

(4) Premium or salami paid at the time of settlement;

(5) Considerations of personal service rendered by the tenant; and

(6) Competition (though very rarely).

Q. 55. If the zamindars and middlemen between the State and the raiyat are removed, then a question will arise whether a raiyat who does not cultivate his land and has sublet it to an under-raiyat will not also be removed on same principles, for otherwise the evil which is supposed to come out of the intervention of the intermediaries will continue to exist only under a disguise or a different denomination. Assuming, therefore, the position to be such as no middleman is left between the Crown and the actual cultivator to intercept the rent a readjustment of rents will, in my opinion, be necessary on a uniform basis of 1/6th of the gross produce of the land subject to an increase to the extent of ¼th according to the exigencies of the State. I do not think it will be possible to do so without preparing a new record-of-rights. (Vide Report of the Indian Taxation Committee, Vol. I, p. 85, Art. 103.)

Q. 56. I would suggest 1/6th share in the gross produce of the lands subject to an increase to the extent of ¼th share if the exigencies of the State require.

Q. 57. In such cases rent should not remain fixed but should be alterable according to the money value of the produce and the needs of the State; and the rates of rent should be re-examined every tenth year.

Q. 58. No, I do not think income-tax can adequately compensate the loss that will be sustained by total abolition of rent. It is also very

likely that a large portion of lands would escape assessment as being below the minimum that is or may hereafter be prescribed in the Income-tax Act and the net result is not likely to be profitable. With the increase of population much of the assessable income will be distributed below the minimum limit of assessment and the loss will increase from year to year with the growth of population.

Q. 59. The following are the defects that strike me in a case for enhancement of rent:—

(*a*) The presumption that the existing rent is fair and equitable until the contrary is proved as laid down in section 27 puts the landlord at a disadvantageous position while there is no such bar to a tenant in claiming reduction of rent.

(*b*) Sections 29 and 30 lay down rules for enhancement of money rent only. There should be some provisions for enhancement of produce rents.

(*c*) Section 48D leaves rather too much to the discretion of the Court in cases of enhancement of rent of under-raiyats. It seems desirable to lay down the circumstances under which enhancement can be claimed and some principles to be followed by the Court in exercising the discretion that is given to it.

Q. 60. No, the landlord being the proprietor of the soil has a legitimate right to claim a share in the benefit due to fluvial action. The tenant has a corresponding right under section 38(*a*) to get reduction of rent when the soil is deteriorated by a deposit of sand or other natural causes without the fault of the tenant; so the balance is held evenly between the two parties and there is no cause of complaint.

Q. 61. No, I have already said in my answer to question 50 that as money rent represents the landlord's 1/6th share in the gross produce of the land, it follows logically that rent will be increased with the price of the crop; the only question that may arise is whether the rise in the price should be of the staple food crop or of the crop that is grown on the land; but as a matter of fact we gradually find that the price of the staple food crops ordinarily reflects on the price of the other crops.

Q. 62. Yes; as the raiyat has the full liberty to grow any crop that he likes and he does not pay anything more than the fixed rent to the landlord if he grows the most lucrative crop on the land. Apart from the legal rights a good landlord always makes concession in fit cases and section 35 of the Act gives full discretion to the Court in the matter of granting enhancements—these are sufficient safeguards against oppression.

Q. 63. No, I would not have any objection; prevailing rate should be considered both in cases of enhancement and reduction. Just as in a suit for enhancement on the ground of prevailing rate, section 31(*d*) of the Bengal Tenancy Act debars consideration of landlords' improvements, if any, for the purpose of ascertaining such rate, so it is very likely that in a case of reduction on the ground of prevailing rate restrictions might be imposed ignoring raiyat's improvements. There is no reason to apprehend that if advance payment in the shape of salami is brought to the notice of the Court, it will not be given a due consideration along with other concomitant and allied facts, e.g., remissions of rent granted by the landlord in respect of the particular holding, expenses incurred by the landlord or loss sustained by him owing to the tenant's neglect or fault, etc.

Q. 64. It is perhaps reasonable to presume that rates fixed by contract are consistent with rates prevailing in the locality and sanctioned by law. A contract cannot be enforced if it is repugnant to statutory provisions. Such being the case, I do not consider it necessary to reduce the rates that are already fixed under contract.

I do not think that existing rents for new settlements will be effective in practice though this is desirable for the purpose of preventing rack-renting. The landlord who is so inclined may easily avoid. the restriction by increasing the salami.

Q. 65. Proceedings under section 104A to section 104F are not properly conductd particularly with regard to service of notice on landlords and tenants specially in the case of temporarily settled Government estates. The landlords and tenants do not get an opportunity to represent their cases before the Settlement Officers and, as a consequence of this, unreasonably high rents are very often recorded and mistakes are also made in recording the nature and extent of interests as well as other details in the settlement rent roll. As under section 104J the presumption of correctness is unrebuttably attached to the rent roll, the landlords and tenants are very often left without a remedy.

The barring of jurisdiction of Civil Court under section 109 sometimes operates harshly on parties. The section requires modification on the lines of section 11 of the Civil Procedure Code.

Q. 66. I do not know any such cases; on the other hand I have found that in many cases rents were settled at lower rates than what the landlords could claim in accordance with law.

67. It may be true in the case of temporarily settled Government estates as we fined that in the case of diara lands the rent goes up by leaps and bounds at every revisional settlement but it is not true in the case of permanently settled estates where rents are fixed generally at an endurable limit and the scope for enhancement is very small.

Q. 68. The following among others are the estates where the enhancements were obviously unfair:—

Estate No.			Area.	Previous rent.	Increased rent.
				Rs.	Rs.
3461 (Nadia)	..	..		429	892
6622 (Burdwan)	..	..		47	185
6626 (Do.)	..	..		50	123
6628 (Do.)	..	..		63	202
6630 (Do.)	..	..		200	429
6631 (Do.)	..	..		4	32
6634 (Do.)	..	..	•	4	185

Q. 69. Enhancement on the ground of rise in the price of staple food crops can be obtained only once in 15 years (section 37 of the Act) and enhancement is sanctioned when the average price of the last 10 years exceeds the rent that is paid by a tenant. Consequently it follows that if enhancement was given at a time when the price was beginning to fall the tenant must have reaped the benefit of increase of price for at least 10 previous years without paying any enhancement whatsoever; apparently therefore no injustice was done and the tenants have no legitimate grievance.

Q. 70. This may be due to difference in local conditions such as facilities of irrigation, chances of failure owing to floods and droughts, facilities of sale of crops, suitable markets, prices of manures, cost of labour and other implements of agriculture, paying capacity of cultivators and such other causes. It may also be due to underhand ways practised between the cultivators and the assessing staff to some extent.

Q. 71. An ordinary landlord who runs his estate on business lines will naturally feel diffident in granting remissions not only because it is difficult to get a corresponding remission of revenue from the Government but also because whatever remission he may get from the Government will not be commensurate with the remission of rent which he will have to give to his tenants. There are landlords, however, in the permanently settled estates who grant large remissions without even claiming for a remmission of revenue, as for instance, I have mentioned the Burdwan Raj Estate.

The insufficiency of remissions granted in Government khas mahals is probably due to the inherent defect that lies in the mode of enquiry. It is, perhaps, the common practice to rely on the report of the President of a Union Board who in his turn might depend on a dafadar or a chowkidar. Information received through such sources is likely to be tainted with personal prejudice and as a result thereof deserving

cases are turned down without a relief. If the petitioners are allowed to approach the Collector in person and if direct enquiries are made in the affected area by officers not below the rank of Deputy Collectors, the situation may improve.

Q. 72.

	Average yield per acre.	Average cost of cultivation per acre.
	Maunds.	Rs.
Jute	15	40 to 45
Paddy	18 to 24	24 to 30
Sugarcane	60 to 90 of gur.	120 to 130 (including crushing and gur making).

The above represents the position in Burdwan district on an average calculation of five years.

The amount of cost and the quantity of produce often vary according to wages of labourers and weather conditions.

Q. 73. Yes, the productivity of the soil of Bengal seems to be rapidly decreasing. At present the average yield per acre has been reduced to less than half of what it used to be a hundred years ago. The reasons are the following:—

(1) Want of sufficient manure due to—

(*a*) Scarcity of cattle.

(*b*) Use of bones and skeletons in mills and factories.

(2) Deposit of sand on agricultural lands caused by annual inundation of shallow rivers like the Damodar and the Ajoy.

(3) Increasing insanitary condition of villages due to which neither initiative nor strength is left to the cultivators for improvement of their soil.

(4) Exhaustion of fertility by age and over-production.

The Government does not appear to have done much to avert the evil. Establishment of a few agricultural farms or an inadequate distribution of seeds and artificial manures has not made any noticeable improvement.

Q. 74. These legislations though ostensibly enacted for the purpose of benefiting the rural population and improving agriculture have their disadvantages which made them more or less unpopular.

(*a*) The Bengal Land Improvement Act contemplates advancing moneys to landlords for the purpose of improving their estates but the result of the investment being more or less uncertain at least from a

self-regarding point of view, the landlords naturally *feel shy at incurring* a debt with the stringent conditions of repayment embodied in the Act.

(*b*) The Bengal Sanitary and Agricultural Improvement Act has failed probably because the people who were supposed to be benefited did not profit as much as they expected or considered the cess which they had to pay as too heavy in consideration of the benefit which they received.

(*c*) The failure of the Bengal Rural Development Act is also due to similar reasons. The rate levied under this Act is considered to be too high and complaints are also heard very often of insufficient supply or want of supply when it is most needed.

However progressive the enactments may appear to be at first sight there is an under-current of business principles flowing within the three enactments which accounts for their inoperation.

Q. 76. My information is that at present Government realises salamis in such cases, though I am not sure when this practice first began. I have no knowledge that Government has ever utilised the salami or any portion of it for agricultural improvement.

Q. 77. The present policy of the Government is to some extent a contributory cause to the uneconomic condition of the raiyat but the main reasons are to be found in their habits which have changed so vastly with the development of modern ideas. The income which was not only sufficient for a cultivator for the maintenance of his family but also enabled him to save something for bad years in now insufficient even for the purpose of bare subsistence. A modern cultivator will readily spend money on articles of comfort or taste or any pursuits of pleasure and will borrow the very next day for buying the necessities of life which a cultivator of the old type would never have done; yet he does nothing to add to his resources. He is no longer the plain living sturdy peasant of the past who was content to live within his means and feared to go beyond his resources. He is a curious product of semi-civilised atmosphere, frail in body, discontented in mind, accustomed to make the most of the day that has dawned without caring for the morrow. Though the cultivators themselves are mostly responsible for their present uneconomic condition, the Government has been indirectly hastening their march to penury by giving them facilities for borrowing and slackening their ties with the landlords, and by creating opportunities for them to transfer their lands without restraint.

"At the same time, the pressure of the land revenue is by no means the sole, or even the main cause of a state of affairs of which low production, heavy indebtedness and excessive fragmentation of holdings are the chief symptoms. These must be attributed in the

main to other causes, such as increase in the population, paucity of alternative employments, the law of inheritance, the attachment of the people to soil and their unwillingness or inability without assistance to form their estates into economic holdings."

(Vide Report of the Indian Taxation Enquiry Committee, 1924-25, Vol. I, p. 78.)

Q. 78. The average income of a raiyat (*a*) from his holding varies according to the area of the holding, the crop which he produces, the costs of cultivation, the nature of the soil, the security of production, market facilities, and a multiple of other factors which it is almost impossible to determine. The average income may vary from place to place and from year to year; I doubt if any figure can be put down which will be universally correct. (*b*) It is still more difficult to ascertain the average income from other sources—such sources are unlimited and to my knowledge there are no statistics to throw any light on the point. In the majority of cases we find that the cultivating raiyats maintain themselves and their family from their income as they seldom beg and perhaps never steal.

Q. 79. I am not aware if there is any system or organisation at present for maintenance of the land records. Under the provisions of the Land Registration Act the proprietor of an estate is required to register his name at the Collectorate in the event of there being a change in consequence of succession or transfer and a penalty has been imposed in the Act for failure. This has served its purpose satisfactorily. There is however no provision in the Bengal Tenancy Act that compels a tenant to register his name in the Collectorate for alteration of the record-of-rights. The record-of-rights, therefore, becomes out of date within a few years from the date of final publication. The land records can be better maintained if tenants are compelled to notify changes in the tenancy by succession or transfer on penalty of a fine in the case of failure. I have no knowledge of the system prevalent in the United Provinces and am not, therefore, in a position to say how far the system will work successfully in Bengal.

Q. 80. To the methods suggested I would add the following:—

(1) By producing richer varieties of crops.
(2) By finding better markets with facilities of export and import.
(3) By offering more facilities to cultivators to secure loan on moderate terms.
(4) By reducing court fees payable in rent suits.
(5) By establishing a system of crop insurance.

Q. 81. Yes, increase of population is no doubt one of the causes as it has increased the struggle for existence by overcrowding all avenues of income.

From Statement VII of the statistics we find that between the year 1891 and 1931 the agricultural population has increased by 8·7 millions. Though there has been a corresponding increase in the area of cultivation, yet the surplus in population seems to have exceeded the agricultural needs of the country; it may roughly be estimated at about 20 per cent.

Q. 82. Yes, this is one way of relieving the pressure but there are other ways too as suggested in question 80.

Q. 83. Within the last few years the land mortgage banks and also the village co-operative societies have not done much to facilitate rural credit. Rules of these organisations have often proved too technical and rigid to the uneducated mass of agriculturists and loans are often issued within a limited circle after much delay and waste of time.

Besides land mortgage banks and co-operative credit societies Government have from time to time issued tuccavi loans to the agriculturists specially during periods of scarcity; but in such cases loan is sometimes advanced on the joint and several responsibility of the borrowers making thereby anyone of the borrowers liable for the default of others. Owing to these defects it has not been possible for many agriculturists to secure necessary loans in times of need. It is desirable therefore that the rules of the existing credit organisations be changed or some new types of organisations established on more liberal lines and with less complications in their procedure.

Q. 84. A certain percentage of the gross produce of land goes to the mahajans by way of interest no doubt, but I cannot say whether it is 25 per cent. or more or less. 25 per cent. is, I believe, an over-estimation. I do not however think that the money which the mahajan gets from the borrower be considered as an annual drain. He plays a very important part in rural credit. He is the only person to whom an agriculturist may look up for immediate help in times of need. Under the restraint of Usurious Loans Act and Agricultural Debtors' Act he is debarred from realising interests at usurious rates and has to wait for years for the recovery of the principal amount in small instalments. He runs a great risk in lending money to agriculturists without sufficient means. But under proper restraint as he is at present he is an indispensable friend of the cultivator. If his rates are a little higher than the bank rates that finds ample justification in the risk that he takes.

Q. 85. Banking Enquiry Committee estimated the total rural credit at about 100 crores of which 4½ crores are supplied by co-operative societies and the loan offices supply only 2 crores. The bulk of the requirements must therefore be supplied by private moneylenders.

The part played by these moneylenders in helping the agriculturists is therefore much more important than the help offered by the co-operative societies and other organisations, and the societies have served very little of the purpose for which they were started. The rate of interest charged by the societies from the agriculturists is 12½ per cent. on long term loans and Rs. 9-6 per cent. on short term loans. This is almost as much as the average moneylender realises from the debtor, yet the money comes from him more readily and his ways of realisation are much less rigid and much more accommodating. These disadvantages account for the short work of the societies to a great extent. I am not aware if any of the co-operative societies have succeeded in wiping out the debts of their members. None of the societies in Burdwan could do so.

Q. 86. The Debt Settlement Boards have done a service to the debtors, agriculturists and pseudo-agriculturists, by giving them time to pay up their existing debts by convenient instalments but it has practically closed the doors of all capitalists against them. The chances of the debtors being able to pay up their debts regularly according to the instalments fixed by the Board are not very great, so the ultimate result of this legislation may be to place the borrowers in a much more precarious position than where they were. The statute is too full of imperfectious and anomalies and the administration of the law is bound to create doubts and difficulties. The Board very often consists of half educated men of no status or merit. "No useful purpose will be served by throwing into prominence the absurdity of having intricate questions tried by a tribunal of commonsense, often perhaps unlettered commonsense. The whole policy of the Act is that rights and liabilities regarding monetary obligations will be determined by a tribunal of laymen according to such lights as nature may have given them. In a sense the Act is an Insolvency Act: in another sense it is a confiscatory measure inspired by the spirit which lies behind the doctrines of communism. Even so we think it would be better if some provision had been made for a reference to Court for decision on troublesome points of law like what is to be found in the Arbitration Act." (C.W.N. Vol. XLI, Notes P. CII.X.)

Commenting on section 40 of the Act, the Editor of the *Calcutta Weekly* Notes said:—

"It is somewhat refreshing to find that the old spirit so rarely found now-a-days in superior Courts has incarnated itself in rural Bengal in the persons of appellate officers. Denying jurisdiction is at present the rule rather than the exception and therefore Courts which assume jurisdiction set up a heartening example. Let them go strong. It is undoubtedly a pity that parties should be the string by which they are pulling from different ends, but in a measure which is inequitable

from beginning to end, one ought not to expect any equity. When the strain reaches such a degree of intensity that it can no longer be borne the public themselves will rise against the Act and secure its repeal or the overthrow of its sponsors. Till then, we wish god-speed to the appellate officers who are serving the public cause by generating friction and preparing a case for an overhauling of the Act." (C.W.N. Vol. XLII, No. 18, Notes P. IXX.)

The principal defects that occur to me are—

(*i*) Inclusion of rent within the definition of debt.

(*ii*) The very wide jurisdiction given to the Board.

(*iii*) The exclusion of the jurisdiction of Civil Courts and prohibition against appearance of pleaders.

(*iv*) Absence of requisite qualification in the personnel of the Board.

Speaking generally the Act is in substance saturated with ruthless disregard of contractural rights of individuals. In form it is a revival of the crude system of adjustment of rights through the agencies of Quazis or Mandals. The original idea was probably to invent a measure of giving relief to the improvident mass of cultivators against their creditors at a minimum cost but the Act has failed to serve both the objects. Driven to desperation the creditors have ceased to lend money to the agriculturists and the landlords hesitate to help them with paddy and manures; yet the solution of the problem of existing liabilities is not all that is required for the protection of the cultivators—their wants are increasing with the growth of civilisation and their resources are limited to a few bighas of land; so they must seek the help of their landlords and credit over and over again. Unless therefore the Government can find means to help these people with money in times of need, they can never be relieved and never enjoy the benefit which the Act proposed to confer on them.

Q. 87. As we find co-operative credit societies taking up only 4½ per cent. of the problem which too they are unable to secure, and the private moneylenders tightening their fists for fear of the operation of the Debt Settlement Boards it is quite up to the Government to establish agricultural banks in every union for advancing money to the agriculturists in times of need. The average agriculturists must borrow once a year to meet the costs of cultivation in some cases, to find provision for himself and his family, and the mahajan to whom he looked so long in exigencies has closed his doors. It is incumbent on the Government now to come forward with funds to help the agriculturists. The Bengal Agricultural Debtors Act was designed by the Government with a view to protect the improvident mass of agriculturists but unless rural banks are very soon established by the Government to meet the immediate

needs of agriculturists the objects of the statute will be completely frustrated and the agriculturists will be thrown into an utterly helpless position.

Q. 88. These banks are not doing much business and they are rarely accessible to the poor cultivators.

Q. 89. Yes, the expense can be minimised to a great extent by—

(*a*) Reducing court fees and process fees.

(*b*) Expediting and simplifying execution proceedings.

(*c*) Serving summons and notices by registered post.

(*d*) Empowering the landlords to take recourse to the certificate procedure as an alternative measure or vesting them with summary powers of distraint.

(*e*) By annulling the Bengal Agricultural Debtors' Act.

(*f*) By checking with a strong hand the abuses prevalent in Courts.

Q. 90. It is harassing and oppressive for the following reasons:—

(1) The Executive Officers who hold the proceedings are generally impatient.

(2) Justice is very often sacrificed for the sake of expedition.

(3) Intricate questions of law and fact very often arise in contested cases and the Executive Officers cannot properly tackle them.

(4) Office orders and instructions issued by the Revenue authorities are misunderstood and followed in contravention of the provisions of the statute.

(5) The initial court fee costs and the process fees are the same as in civil suits. So there is very little of economy though the ultimate decision is inferior in merit and consequence.

(6) The delay in the disposal of cases owing to insufficiency of hands in the Certificate Courts who have several other additional duties to perform.

(7) The entertainment of frivolous objections which are *prima facie* untenable and absurd and the delay in the disposal of contested cases which often take as long as contested civil suits do.

The tenants consider the procedure as unduly harsh only because of the warrants of attachment of movables which the Certificate Courts invariably issue at the first instance. Though the warrants seldom succeed in the case of private landlords, all the same they are odious as bringing disgrace on the certificate debtor who finds the Collectorate peons more difficult to avoid than a Civil Court peon.

The remedy lies—

(*a*) In reducing the court fee and the process fee rates.

(*b*) In advising Certificate Officers to serve the ends of justice conscientiously even at a sacrifice of expedition and to attach more value to the statutory provisions than to office orders and instructions.

(*c*) In providing adequate staff who can sufficiently cope with the volume of work

Or

In the alternative by changing the forum to Civil Courts.

Q. 91. Yes. Provided the Act is properly drafted. If the repeal of the old Regulations and earlier Acts is done only with the object of their consolidation into a simpler Act without any change of policy then it will be very useful but if it involves a change of policy or alteration of the main principle underlying a Statute, then public opinion should be invited before a change is made.

Q. 92. Act XI of 1859 requires amendment as some of its provisions appear to be too rigid. Section 6 of Act XI of 1859 should be amended so as to empower the zamindar to pay the revenue with or without penalty any time before the sale or within one month after the sale.

The Patni Regulation (Regulation VIII of 1819) which was enacted on the lines of Act XI of 1859 was amended to allow the patnidar to pay the patni rent within a month from the date of the sale. So a corresponding relaxation of the Revenue Sale Law is necessary for the protection of the zamindars.

Section 14 of the Act should be so amended as to provide for a notice by registered post being served on the owners of different shares in case the sale-proceeds of a share are insufficient to meet the arrears of revenue due on account of that share. It often happens that the owners of different shares with separate accounts do not attend the sale that is held of another share (of which they are not the owners). Unless they receive a notice they cannot avail of the advantage offered under section 14 of purchasing the defaulting share and are seriously prejudiced by a sale that is subsequently held of the entire estate under section 21.

A co-sharer purchaser under the provisions of section 14 should also be entitled to get the share free from all encumbrances.

Regulation VIII of 1819 (Patni Sale Law) requires amendment on the point of service of notice on the defaulting tenure. The procedure laid down in section 8 of the Regulation operates harshly on the zamindars inasmuch as he can seldom prove service of notice on the defaulting tenure. The law throws the whole onus on the zamindar to prove that the sale notices were served and all other formalities were observed

in strict accordance with the provisions of the Regulation. Regarding service of notice on the defaulting tenure, the provisions are that it should be served by a single peon who shall bring back the receipt of the defaulter or of his manager or the signatures of three substantial persons residing in the neighbourhood in attestation of the notice having been brought and published on the spot. It is least to be expected that a patnidar who defaults wilfully and subsequently institutes a suit for setting aside a sale on the ground of material irregularity in the publication of sale notices, or his manager, will ever sign a receipt, or even if he has signed will admit his signature. It has also been found impossible to produce three substantial men of the village to admit their signatures or to give evidence of service in Court as the patnidar being the man on the spot wields much greater influence on the residents of the village than the zamindar and has the fullest control over them. As a result of this whenever there is a suit for setting aside a patni sale, the zamindar loses the cases and the patnidar is restored in possession of the tenure without payment of the arrear rents which are admittedly due. The Regulation therefore requires amendment in the following directions:—

(*a*) Provision should be made in section 8 for alternative service of notice on the registered patnidar or the owner of the patni for the time being by registered post.

(*b*) Section 14 of the Regulation should be so amended as to provide that no suit to set aside a sale on the ground of irregularity in the publication of sale notices or on the ground of irregularities in holding the sale shall be maintained unless the plaintiff deposits in Court the amount of arrears with interests up to date. There is a similar provision in clause (*3*) (*e*) of section 174 of the Bengal Tenancy Act which is fair to all parties.

The time limit for instituting a suit under section 14 of the Regulation should be fixed at 6 months from the date of sale as the present limit of one year is unreasonably long and leaves the zamindar and the auction purchaser in an uncertain position.

Q. 93. The amendments made to the Bengal Tenancy Act in 1938 have injured the economic position of the landlords in more ways than one. They were the outcome of a doubtful if not altogether erroneous conception of the relative position of landlord and tenant and an unfounded notion of the latter being squeezed and oppressed by the former. The correctness of the statements was measured by the pitch of the voice and consequently the noisier of the two won the strife.

(*a*) The abolition of landlords' fees has resulted in a loss of 36·74 lakhs of rupees to the landlords in the average for last 8 years up to 1936-37 according to the statistics collected by the Land Revenue Commission (*vide* Statement XIV). According to the estimate made by the

Hon'ble Minister-in-charge of the Revenue Department *it is Rs. 40* lakhs. The bulk of this amount lost by the landlords, if not the whole of it, will enure to the benefit of the tenants. The landlords' right to receive a salami in the event of transfer was freely exercised and seldom if ever questioned in the past, so it is to be viewed as the loss of a legitimate demand which detracts a good deal from the value of his property. On the other hand the abolition of the only restriction against transfer will encourage the improvident and thoughtless raiyats to sell off their only property on earth and lead them on to deprivation in fast strides. (Sections 3, 4, and 5 amending sections 26 to 26E of the Act of 1928.)

(*b*) The right of pre-emption being denied to the landlords they are now forced to pull on with undesirable tenants who may not have the mind or means to pay the rent. Realisation of rent is necessarily jeopardized and that will prejudicially affect the value of the estate. It further extinguishes one of the easiest possibilities of preventing fragmentation of holdings below the economic standard. (Section 6 amending section 26F of the old Act.)

(*c*) The limitations imposed on usufructuary mortgage are an unwarranted interference with contractual rights of individuals in the name of public good. It will have a deterrent effect on the capitalists and will create difficulties in the way of the tenants incurring a debt on easy terms as before. (Section 7 amending section 26G of the old Act.)

(*d*) Suspension of provisions relating to enhancement of rent for a period of ten years from 27th August 1937 without a corresponding provision regarding reduction of rent is iniquitous and unjustifiable. It is based on a supposition that the tenants are rack-rented by landlords but if the Government is to be followed as the ideal landlord the statistics obtained by the Land Revenue Commission will show that the rate of rent in the estates owned by the private landlord is lower than the rate prevailing in Government mahals (Statement IX). The amendment is therefore distinctly prejudicial to the economic interests of the landlords. (Section 21 inserting a new section 75A in the old Act.)

(*e*) The right of surrender given to a tenant irrespective of the consent of the landlord and irrespective of the duration of the lease is an innovation that puts the landlord in a disadvantageous position. It gives the tenant the right to enjoy the land so long as it yields the profit that he expects and to relinquish it immediately there is a loss or the amount of profit is not quite up to his expectation. As the landlord has no right to evict a tenant with any permanent right or right enduring for a fixed period, to give a right to such a tenant to retire at his will and pleasure, is opposed to all sense of justice unless the maxim to

be followed is "tenants are always to gain and the landlords to lose". (Section 22 inserting section 85A in the old Act.)

(*f*) The provisions relating to abatement of rent on account of diluvion and the subsistence of tenant's right to regain possession of the reformed land for 20 years are all one-sided. While taking the most tender care of the tenant they throw the landlord into the deep sea. The landlord is forced to grant reduction of rent to the tenant for the diluviated area though his way to get reduction of revenue is beset with insurmountable difficulties and he may have to sustain this loss for full 20 years, yet the tenant is given the right to claim it back on payment of 4 years' rent only. If the law required the tenant to pay the rent of the full period that was lost to the landlord it would have been fair but to make the tenant gain at the expense of the landlord is an instance of robbing Peter to pay Paul. (Section 24 amending section 86A of the old Act.)

(*g*) The provisions authorising division of tenure or holding without the consent of the landlord are not only injurious to the landlords but also directly hostile to the idea of formation of economic holdings. It increases the collection expenses of the landlords, impairs the security for payment of rent and reduces the value of the holding. From the viewpoint of tenants it is beneficial to some extent inasmuch as it enables a solvent and good tenant to get rid of the disadvantage of being associated with an impecunious or refractory co-sharer. Such jointness of possession and interests cannot be permanently cured in Bengal where the Dayabhaga law of succession prevails. While therefore the advantage to the tenant is merely of a temporary nature, the mischief in the shape of decrease in the value of the property is permanent. (Section 25 amending section 88 of the old Act.)

(*h*) The reduction of the rate of interest from 12½ per cent. to 6¼ per cent. has caused a considerable loss to the landlords. Though remissions of rent and interests are voluntarily given by the landlords in fit cases irrespective of the provisions of legislation, they have every reason to feel aggrieved at the compulsory reduction of the rate. Just as there are good landlords and bad landlords so also there are good tenants and bad tenants. If a good landlord remits rent and interests freely to good or deserving tenants there is no reason why he should not be allowed to realise interest at the rate of 12½ per cent. from refractory tenants or wilful defaulters. If the co-operative societies and ordinary moneylenders have the right to realise interest at the rate of 12½ per cent. or more and if the tenants can pay them at that rate, there is no reason why they cannot pay the landlord at the same rate.

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